

Closed Caption Log, Council Meeting, 08/18/11

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Mayor Leffingwell: Good I'm austin mayor lee leffingwell. We'll begin today with the invocation from pastor dechard ihm freeman, the abundant life community baptist church. Please rise.

Good morning. Let us pray. Most holy and wonderful god, it is with great joy this morning that I acknowledge you as maker and ruler of all the universe. Lord, we declare you are holy and beside you there is none. We confess today that we are limited and flawed people and are capable of many mistakes. Because we are finite we turn to you today to endow our leaders and city government with your wisdom and discipline. Jehovah, we invoke your spirit presence in the halls today for guidance, truth and a heart for your people. Please, lord, consume our leaders with compassion, integrity, creativity and patience to accomplish your will in our beloved capitol city. We pray today for unity, grace and peace in the name of jesus christ I pray and ask your blessings, amen. And thank god.

Mayor Leffingwell: Amen. Thank you, pastor. Please be seated. A quorum is present so I'll call this meeting of the austin city council to order ON THURSDAY, AUGUST 18th, 2011 At 10:10 a.m. We're meeting in the council chambers, austin city hall, 301 west second street, austin, texas. We begin with the changes and corrections to today's agenda. Items number 2 and 3 be postponed until august 25th, 2011. Items 14 and 15 are postponed until august 25th, 2011. Item number 22, delete the word direct after payment of and insert the correct word indirect, instead of direct. On item number 45, add the phrase recommended by the electric utility commission. On item number 81 add the phrase, recommended by the public health and human services committee. Item number 83 is withdrawn. Our time certain items for 30, we're scheduled for a briefing on the downtown plan. At 12 noon general citizens communication. we'll take up our zoning matters. 00 we'll convene a meeting of the austin housing finance corporation board of directors. we'll have our public hearings. 30 live music and proclamations. The musician for today is frank smith. The consent agenda is items 1 through 89, with several exceptions that are pulled off the consent agenda, which I will read in a moment. But first I want to state that council rules as set out in title 2 of the city code provide that a person other than a councilmember may not prepare in pulling more than three items from the consent agenda. Again, this rule does not apply to items that are pulled from the consent agenda by councilmembers. So if there are any citizens in today's meeting who have signed up to speak on more than three items that are not pulled by a councilmember, and you have not made arrangements to correct the items you want to sign up with the city clerk, you will be allowed to speak only on the first three items that you have signed up on. Item number 73 will remain on the consent agenda, but i will read these appointments into the record. The 2012 charter revision committee, fred cantu is nominated by myself, mayor leffingwell. Margaret minichetti is nominate bid myself, mayor leffingwell. And ken rigsby is nominate bid myself. Nominated by mayor pro tem cole are senator gonzalo gar yes or no toes and nelson linder. The appointments to the african-american resource advisory commission, sherri carry is nominated by councilmember spelman. To the austin music commission, michael fefferman nominated by councilmember riley. To the board of adjustment, melissa whalely hawthorne nominated by myself, mayor leffingwell. The community development coals, a representative from the john's area nominated by councilmember tovo. Liz miller nominated by councilmember morrison. Cornell wooldridge nominated by councilmember spelman. To the construction advisory committee, martin cross sant nominated by councilmember tovo. To the downtown community court advisory committee, will hancock

is nominated by councilmember tovo. The downtown commission, j. Ude galligan nominated by councilmember riley, heather way by councilmember morrison. To the electric board, tasha McCARTER, NOMINATED BY Councilmember tovo. Ethnic we view commission, donna beth mccormick nominate bid councilmember morrison. Library commission, olga wise nominated by councilmember spelman. Parks and recreation, lynns on good nominated by councilmember tovo. The planning commission al fon so fernandez by councilmember martinez and donna tiemann by councilmember morrison. Residential design and compatibility commission, william burke heart by councilmember riley, mary i ingall by councilmember tovo. The resource management commission, (indiscernible) councilmember riley. To the robert mueller municipal airport implementation advisory commission, stella israel nominated by councilmember riley. To the sustainable food policy board, catherine nicely, councilmember riley. To the waterfront advisory board, royman, councilmember riley and dean ren di, councilmember morrison. We have two waivers. First to approve a waiver of simultaneous service on more than one city established board as provided in section 1-21 of the city code for nelson linder's service on the 2012 charter revision committee. And to approve a waiver of residency requirement in section 2-1-21 of the city code for celia israel's service on the rmma planned implementation advisory commission. That's a mouthful. So items pulled off of the consent agenda so far are item number 18 is pulled for a presentation by the law department. Item 74 is pulled by councilmember martinez to be this afternoon. Items 16 and 17 are pulled by councilmember cole for brief comments. So in addition to that, the following items are pulled off the consent agenda for speakers. This is very complicated today because of the new rule. Item 13 -- delete that. Item 13 remains on consent. Item 33, item 74, item 15, item 19, item 24 and i believe I already said item 33, but if I didn't, item 33. Item 74. 75. Item 79. Item 80. Those are items pulled off of the consent agenda. And are there any additional items to be pulled by councilmembers? Councilmember spelman.

Spelman: Mayor, i believe I heard you say that item 15 was pulled for speakers, but item 15 has been postponed until the 15th of -- until the 25th of august. There's no need to pull that item.

Mayor Leffingwell: Thank you. Item 15, is that in the changes and corrections? All right. So item 15 is postponed. All right. Add items 11 and 72 are also pulled from the consent agenda. Sthoaz stwo items to be heard together. Any additional items? Councilmember morrison.

Morrison: Yes. We already have item 74 to be heard no earlier than 3:00 p.m. 76 is a somewhat related item, and it would be my request and hopefully someone would support me on this to also pull item number 76 to be heard after 74.

Mayor Leffingwell: Without objection, items 74 and 76 are pulled off the consent agenda to be heard after three p.m. Anything else? I'll sprain a motion on the consent -- I'll entertain a motion on the consent agenda? Mayor pro tem -- I believe it was councilmember spelman moved approval. Mayor pro tem cole seconds. Is there any discussion? All in favor say aye? Opposed say no. It passes on a vote of seven to zero. So coupe, 2 and 3 -- so council, 2 and 3 have been postponed. City clerk, 2 and 3 have been proposed. We'll go to 11 and 72, heard together, which are pulled for speaker clay defoe. Welcome. You have three minutes.

Ladies and gentlemen, good morning. We are looking at item number 11 and 72 of the agenda. I stand in opposition to the item because I feel like it's going to hurt austin. So let's read item number 11 together, please. Authorize execution of a construction contract with smith contracting company, , austin, texas, for the little shoal creek realignment and utility relocation, phase I project in the amount of 4,774,017, 55 ceang for a total contract amount not to exceed \$5.5 million. Now, before I go into this i want to say that in the last six to seven weeks I've counted them, 25 speeches to this council. And that - - in those speech 25 speeches, that's three minutes each, hundreds of minutes, I've posed directly six to eight questions to the council. One of which I'd say they've answered. spelman answer mode a history question last time. I really appreciated that. But in that time I see a lot of lawyers getting asked questions. They're up here for like 30 the council has not asked me one question. So I put the challenge up to them on this one. Well, little shoal creek, what is this? Let's look west of here, west of reblake

park. Let's look at between fourth and eighth street on nueces. That's where this is happening. Needless to say the international bank of commerce is contributing two million dollars of their own money to this private-public profit project, whatever you want to call it. And basically five million dollars for this is not really needed. Yes, we need to control floods in austin. Yes, we need to take care of shoal creek. Let's look at the history of shoal creek. It's historic in this town. There's a story that there's gold buried there. henry, the most famous writer ever to come out of austin. He's written about this custer camp there. I believe this is part of a bigger agenda to dramatically change shoal creek. What we're looking at is making shoal creek from a nice, beautiful little place where you can take your children and play, to a storm drain sewer essentially. I was at the may 26th meeting in pease park, talked with michaelly and others and I heard what they're planning to do. This is phase I of a massive project, like what we're seeing with waller creek, shoal creek will be destroyed and you will not be able to walk in the creek bed or explore, which many of university of texas geology students do every year. I see them taking samples. I think this will hurt austin. We're doing this to help out international bank of commerce, a private corporation that doesn't represent the citizens. We need to put our foot down and say no. This is a five-million-dollar project. It's completely unnecessary. Two million dollars from the bank. Huh, who is interested here? Buzz buses let's vote no. Thank you.

Mayor Leffingwell: We have no other speakers signed up. I'll entertain a motion on items 11 and 72 together. Councilmember morrison moves approval. Seconded by councilmember spelman. Any discussion? All in favor say. Opposed say no. It passes on a vote of seven to zero. Without objection, council, we can address number 19. It only really has one speaker. In addition to that dealy herndon, john sneed and kathy daily are signed up for. Only to answer questions if you have any. The only speaker signed up to speak is clay defoe, who has signed up against. Clay defoe, item 19.

Good morning again, ladies and gentlemen. I rise in opposition to this management services item number 19 to approve an ordinance vacating the portion of colorado street between 10th and 11th streets and certain other city owned rights of way adjacent to the texas governor's mansion. This is a project -- yeah, let's see. Authorizing the reimbursement of costs to relocate city utilities, important aspect of downtown, in an amount not to exceed \$178,000 essentially. I don't know any of you ever go on colorado street. I ride my bike there all the time between tenth and 11th in front of the governor's mansion. Beautiful area. Since the fire in 2008 they've had it closed down. I understand with good reason for doing so and renovating that we need back in operation to have our governor sitting there so we can reach him or her. Now, what this does is vacates the city's rights, title and interest to that portion. I used to work in a real estate litigation firm. I know something about real estate law. I'm not a dummy. This will give away the city's rights to the street from constituent to the state. Now, as a government official I hope you are jealous of power. Don't let them take power from you. You're a city councilmember. We vote for you. If you want to be popular, if you want to win votes, you'll oppose this. This is a giveaway. A straight giveaway to the state and it will cost austin. You don't know what they're going to put there. You don't know what they're going to do with that land. I live right there and i resent this resolution. And that we have to move utilities. This is going to cost us \$200,000. Sure, the state will embrace us, but that only means we'll be robbing from dallas, houston, san antonio and every place in between to do so. I oppose it. I think this is a terrible idea. I do not like the security out there. Very menacing guys with rifles. I know they've got to protect the mansion, do the renovations, but as a city official we need to you stand up and be jealous of power. You're councilmember, you're mayor, have you to say no. This is our city. So I hope you join me in saying no. Thank you.

Mayor Leffingwell: Thank you. Councilmember spelman.

Spelman: Mayor, i herndon or mr. sneed are around?

Mayor Leffingwell: I see ms. herndon.

Spelman: If I could ask you a question or two i would appreciate it.

Yes, sir.

Spelman: We've all got these lovely books that you or somebody arranged to have put on the dais for each of us. I appreciate that. But the rest of the public probably doesn't have the benefit of all that background. I wonder if you could explain in a minute or two what it is that the state -- why the state wants colorado street vacated and what it is that y'all intend to put therein instead?

I appreciate the opportunity. I do think it's important that the public understand this. First of all, we are not asking that any utilities be moved. And I'm just responding to the question -- the statement. It is part of the colorado project that was already slated to upgrade water and wastewater. It will be in the same place. All the other utilities will stay in place and the city will have a full immediate access to those utilities because we understand the importance of that. Secondly, the reason we're even here is that we think that working together with constituent, which we've been doing for the last year really, to make this into an amenity so that we get the security, but we get also that is something that is really enhancing the city of austin. This will be a bike way, a pedestrian pathway. It will be the new entrance to the governor's mansion. So the people who go through the screening facility, which will be moving to that side of the mansion, will have complete a.d.a. access. And the room to get in and out of the screening facility. It will also have emergency access for the city and the state at any time that's needed, so it's not -- it's really open in a lot of ways. The only thing it's closed to is day-to-day vehicular traffic. We are making it with special lighting approve by the city. We're changing all the cross walks in a way that they will be safe and that they will have directional signage that the facility will -- they can still use the sidewalk system and we're putting in a new streetscape, austin great streets sidewalk on the east side of the mansion. So not only can people walk in the pavers in the street, but they can also go down the sidewalk as part of the grid. So we really appreciate all the time and effort that the city staff has put in to working through this with us. The money that constituent will be spending is money that was already in the pipeline to be spent on colorado for the upgraded utilities.

I forgot to say the most important part. The only reason we're here today is security. The department of public safety requested that we close the sidewalks and close colorado. And so this was not an initiative for esthetics or for any other reason or historic preservation or anything. This was an initiative from the department of public safety based on four different reports over the last eight years that say that this is an important initiative for the protection of the occupants and the public. So everything that we've done to make it more beautiful and work with the city on is a follow on to that one tenant that it needs to be safe. Thank you.

Spelman: Thank you. So the reason for the closure, at least the original reason for the closure, was to protect the security of the governor's mansion and ghost and his staff. -- The governor and his staff.

And the public. There's a lot of public that uses the site in and out of there.

Spelman: Good point. So it was done for security purposes, but what you've been doing is working with the state to turn that necessity into an amenity, which will actually be a good thing for the citizens of austin, not just an improvement in security.

We hope so. I love austin too.

Spelman: Thank you, ma'am. manager, we can probably find somebody in transportation to answer this question, but I bet you know the answer off the top of your head. Will closing this small section of colorado pose any problems for the transportation network?

From a mobility standpoint it is my understanding that it will not. Is that correct, rob?

Spelman: It doesn't. Thank you very much. Appreciate your help. Mayor, move approval.

Mayor Leffingwell: I want to make a couple of comment, but I'll note your motion. First of all, it's been closed for a couple years now, so it's not a question of whether or not to close it. The question is whether or not to make these upgrades, these amenities to make it into a place that has appeal and has better pedestrian infrastructure there. Along with that beautification project, the city of austin made the decision -- it was already in the pipeline to replace water and wastewater infrastructure, other city infrastructure below the street in the very near so it kind of made sense that rather than let them go ahead and do this beautification effort and not do the upgrades and come back later, a year later and dig it up again, that we just move up the timetable for improving that part of the infrastructure. So that's strictly the city's decision. As regards again closing -- this is not a matter that the city has any choice about, the portion of the street was closed a couple of years ago. This is merely upgrading the appearance of that facility. And most of that, if not pretty near all of it, is paid for by the state of texas.

Cole: Mayor, I have a comment.

Mayor Leffingwell: Mayor pro tem cole.

Cole: I can certainly appreciate the security issue, especially in this day and age. And I understand the wastewater waste issue that we've been going through, but I also know that the state of texas has embarked on a massive redevelopment of the capitol complex. Can I ask you a question? Are you familiar with that?

Generally I am familiar with it.

Mayor Leffingwell: Is this a different subject? We're not --

Cole: It's related. And the only reason I bring this up is not because it's something that I hope that we deal with right now. It's just into the future that we consider the land development code and our great streets and see how we can merge those requirements with the security requirements so that we maintain a pedestrian friendly environment, not only with this level of pedestrian friendly environment, but also in light of future plans.

Well, we totally agree with that and that's why we've been working to make sure that the lighting, sidewalks, cross walks, everything are amenable with what's happening in the city. I know everybody would prefer not to close the owe three sidewalks, but quite honestly, only one of those is a very functional sidewalk anyway. That is really irrelevant and the chief of staff of is here if you have any other security issues. That's strictly a -- strictly a security issue. We totally agree with you. We've been working with our landscape architect to work at expanding the kinds of development that we've done in this plan to what needs to happen to make that block across from us -- which is under tsc's authorization, the texas facilities commission, but we work closely with them to make sure that it really fits in with and doesn't just remain for the long-term a big empty parking lot. We're going to be doing some work in that parking lot. We would like to do more, but we don't want to do work in a parking lot if there will be development later. We're all working together. Thank you for your interest.

Cole: Thank you. I wanted to point that out. Thank you for all your work.

Mayor Leffingwell: So the redesign of the street in front of the mansion, you've worked with the city on all aspects of it from the very beginning.

We tried to do the new sidewalk -- I think we've gotten approval for the new sidewalk that's across from the mansion to be a great streets compliant, light levels, everything.

Cole: Thank you.

Mayor Leffingwell: Motion by councilmember spelman to approve item 19. Seconded by mayor pro tem cole. Further discussion? All in favor say aye? Opposed say no. It passes on a vote of seven to zero. Mayor so council, it is now 35, so we will go to our morning briefing on the downtown plan.

Good morning. I'm jim robertson of the planning development and review department. And along with michael knox who is across the room here, co-project manager of the downtown austin plan. I'm joined today and one of the people who would speak on this is jim adams, principal of mccann adams studio. The lead of the -- that we've worked with for the last four and a half years since about the spring of 2007. There we are. Let me jump right in then. This project was initiated by a council resolution in december 2005. And among other things that council resolution set the boundaries for the project and laid out at least a partial list of things that the council expected the project to undertake. That task list has been amended through subsequent council actions and so forth. But it included things like modernizing oarnses, including taking a look at entitlements like far and height. It may have wanted us to look at transportation issues, including rail alignments and it wanted us to look at the issues of affordable housing. This slide shows the boundaries as set by the december 2005 council resolution. Just to refresh your recollection, lady bird lake on the south, i-35 on the east, martin luther king boulevard on the north and lamar boulevard on the west. I will walk you through the progression that the project has taken in that time period. In about the first year of the project we were essentially doing a diagnostic. We didn't want to presume to know what the key challenges facing downtown were. We didn't want to presume to know that we fully understand the on the ground conditions downtown. So we spent that first year, which culminated in february of 2008 in what we call the issues and opportunities report. And essentially that identified those existing conditions. It identified a set of challenges that we thought it was appropriate for this project to undertake. And present the them to the council on valentine's day 2008. The council very shortly thereafter directed us to move forward with a phase of work that has been known as phase 1 of the project, which included develop agriculture full spectrum transportation framework plan for downtown. We continued the work that preexisted our project on urban rail and that line of work has continued through today, through the city's transportation department on the urban rail project, which of course is ongoing today. We looked at affordability issues downtown and looked at recommendations for a permanent density bonus program for downtown. We then came back to council in about 2009 with a proposed scope of services for phase 2. And council authorized us to move forward with those things. And that included looking at infrastructure needs and shortcomings downtown, parks and open space urban design, historic preservation issues, and including doing a couple of detailed district plans. All of this work has now been brought together in the downtown austin plan. We have tried to make this document very implementation oriented. The last thing we want to happen is upon adoption of this -- adoption of this plan, everybody looked at each other and say what do we do next? So we have tried to be very action, very implementation oriented and we have focused a lot of our briefing this morning on the recommendations we've made as to how this vision that we've identified can be implemented by the city. Just a little bit, a few words about our -- the process that we have followed. We've had a very broad community engagement process. Among other things we initially conducted a survey for which we had over 3,000 respondents, which really gave us a good idea, not only as to the community's notions of a vision for downtown, but the community's concerns about downtown. And it really helped inform that issues and opportunities report that we've presented in february of 2008. This slide says we've had over 70 public meetings and work sessions. That's very, very conservative. If we were to add in the sort of less formal stakeholder meetings where perhaps we were meeting with a smaller group of stakeholders and so forth, that number would probably double or beyond. We've kept the community involved through the city's website. All of the pertinent documents have been on the website and been available to the public throughout the duration of the project. We've used the neighborhood planning contact tool which has allowed us to assemble a list of over 1400 people, including their contact information, who have contact that had they would like to be kept nstled of the downtown plan -- inform of the downtown plan and we at key dates have let them know of either benchmarks we've reached or upcoming events. We had seven town hall meetings over the course of the project and I'm not going to try to list the most recent was those was in december of 2010 and that's after we released in november of 2010 the last downtown austin -- the draft downtown

austin plan. Here's a picture from that meeting. One of the tools, just as an example of the variety of stakeholder input we tried or the variety of routes we used to achieve stakeholder input, one means we provided at the december workshop was the budget allocator. We had a hypothetical exercise where if you have a certain amount of money to spend on downtown, how would you propose to spend your money. It wasn't meant to be scientific in the sense of randomized across our community. It was a snapshot of that group of people on that day. It helps us where priorities should be in place. By way of brief summary of that, on that day at that time these people expressed strong issues in transportation and streetscape infrastructure including sort of sidewalk improvements, the great streets program and so forth. Parks and open space was a very high for the public as well. Just a brief snapshot of where we are today. As I've said we've released the draft report in november 2010. We had a two to three hour work session with the council in november 2010, that town hall meeting in december. We've been going through a gamut of board and commission reviews during the spring. I think we've been to about a dozen boards and commissions or their subcommittees, culminating on april 26th in a public hearing and action by the planning commission at which time the planning commission endorsed the downtown plan and made a recommendation to the city council that it be adopted and implemented. We're here for the briefing today and we will follow up in the very close future with the public hearing and potentially your action on that. I'm going to turn the presentation now over to jim adams, and allow him to walk you through. Of course, we are open to questions as we go as well.

Good morning, council, mayor. We're very excited that we have gotten to this point today thanks to the hard work of a lot of folks and the involvement of the community. You have seen this numerous times, so i will go through this very quickly. But I'll give you an overview of what is in the plan. We first asked the community why downtown was important.

Clearly healthy, economically healthy downtown is in the interest of all of austin citizens. We have pinned down the -- haven't pinned down the exact number, but a significant portion of downtown tax revenues that are generated in the downtown contribute to larger city programs and needs across the city. Compact and dense downtown is key to achieving our overall vision for the vision and for the city, concentrating density in the core is a key idea that is emerging as part of the comprehensive plan. Downtown is the city of live music and culture. It really is our -- forges the identity of our larger community and create -- and has contributed to the fact that we are one of the nation's leading creative class cities. Most importantly, though, downtown is everybody's neighborhood. The need for it to maintain its authenticity and its accessibility came out as being a key aspect of goals for the plan. The downtown plan gives us the opportunity to identify the risks that were identified holistically, so access mobility came out as being one of the key concerns of the community, so a lot of the authenticity, the viability, continued viability of live music, affordability, the scale, character of downtown and the quality of the public realm. As a result of this whole process we've identified seven transformative steps that we would like to accomplish in the plan within the next 10 years. First among these, and this is really reinforced by the community's input at that last workshop, is to initiate a new generation of downtown's as you know the waller creek conservancy is going forward with major necklace of open spaces along the east side of downtown. That is a key aspect of this recommendation as well as several other parks. Completing the first phase of urban rail and ensuring that we have sufficient mobility in and out of the downtown is the key to success of downtown austin. Reimagining sixth street as a destination for everyone, mixed use streets, broadening its appeal throughout the day as well as the evening, enhancing the streetscape and the public realm there. Promoting primitive supportive housing. Council has already proceeded with this policy recommendation. As a transition for folks going from homelessness into the workforce and making sure that there's a downtown location or multiple locations for the facility. Infrastructure and water quality when you look at the pie chart of the investments needed we have a deteriorating downtown infrastructure system. This is a very important component in terms of promoting development and economic development within the downtown. Moarpnizeing and amending the land development code. Making sure that folks can navigate through the development code and develop efficiently. And the development is creating the kind of downtown that we want. So we have developed a whole form based standards for that. In terms of helping to development an economic development corporation that can assist the city in promoting the kinds of development that will achieve the overall visions of downtown. The plan is organized a into three parts, an executive summary, a

description of the downtown district, and then the plan element. We identified, as you will recall, nine specific districts within the downtown, each that have its own form and character and its own set of issues. We have, as jim mentioned, developed detailed plans for three of those districts, the northwest district, the waterfront and the waller creek district. The policies and recommendations of those plans have been incorporated within the larger downtown plan. And then the plan also has seven key elements listed here. And a series of 100 implementation policies and recommendations aimed at -- organized around those seven topic areas. So the parks and open space master plan, the transportation plan, the different district plans all fed into those recommendations and then there were three different types of policy recommendations that are included in the plan. We have recommended code amendments and zoning changes and a side note is that nothing in the downtown plan is actually going forward with those actual amendments. There will be a process following your adoption of the plan to actually receive additional input and to codify those ordinances. But we have recommended code amendments and zoning changes. A recommended 10-year investment priority plan. And then jim will describe the recommended governance and management strategy for the plan. First giving a summary of the recommended code amendments and zoning changes, we have -- we looked at the land development code and the existing zoning and one of the things we found is that there were a whole series of zoning districts in the downtown that were single use oriented. In other words, there were places where you could do residential, but office wasn't allowed. You could do office, but residential wasn't allowed. So we -- we are proposing that the establishment of a new downtown mixed use district that will replace those single use zoning districts and allow for a much broader mix of uses. And this was a key goal that we heard in the community. So for instance, in the northwest district where you see a lot of those blue squares, we are promoting the full range of uses that would be allowed in any other portion, in a d.m.u. zoned area. We also looked at the proposed increasing the density in certain portions of the downtown, particularly in the northeast area and in the capitol area where the densities were very low. And so there are portions in the dark red where -- that are proposed to be upzoned to cbd and areas in the pink to d.m.u. 120. We also have recommended that rather than setbacks being dictated by particular zoning districts that we establish setbacks by the street and the character of that street. So for instance in much of the downtown we really don't want any setbacks. We want uses to come right up to the street and to activate them. But in other portions of the downtown, like in the northwest district where we have major tree canopies and streetscapes there are places where we want to disestablish a setback. So we have gone through and looked fairly carefully at all of the downtown streets and established setbacks by street. You can see that they range from zero to 40 feet. 40 Feet being along the north congress avenue approach to the capitol. We've also recommended ground level use requirements, particularly in the core area where it's critical that we -- for downtown to maintain its destination we feel that we continue to have active frontages, particularly on congress avenue, east sixth street, the warehouse district and second street, requiring -- recommending that there be a requirement for a certain mix of active commercial or civic uses on those streets. And then mixed use streets which have a much broader range of uses that can go along them, but still contribute to the pedestrian friendliness of those streets. Cocktail lounge use, you might recall that in the draft plan we had recommended that cocktail lounge uses become conditional use. In receiving a lot of input on this issue, we have and staff has proposed an amendment to that recommendation and rather than imposing a conditional use that we identify and implement a range of tools that can address the concerns that have been expressed about some of the overconcentration of cocktail lounge uses in particular part of our downtown. Looking at issues of hours of operation to try to promote longer hours of operation, ensuring that there's compliance with the civil, criminal, fire and building codes and compliance with tabc regulations and ensuring electronic point of sale. So those tools will still be refined as a result of the downtown plan adoption. We also work very hard to establish new requirements for compatibility. When -- right now the generic rules for the citywide rules for compatibility apply to the downtown, everyone felt that that really was not appropriate, especially in a downtown where we're trying to promote density and concentration of density. However, we do have a single-family neighborhood in judges' hill in the northwest portion of the area, and that meant we worked with that neighborhood to establish specific height requirements that step up from that neighborhood as you proceed eastward. And so that rather than a single use -- someone moving in to a property and using it as residential, these stepping -- stairsteps of height would apply. We also have recommended in the downtown plan that we finalize the downtown density program and there's been a lot of work and a lot

of attention paid to this program. The real idea behind it from the beginning was to allow developers to achieve additional density administratively through a very transparent, logical process. We went through the downtown and established what we felt and worked with the community to establish appropriate levels of density in height, and also areas where we did not feel and the community did not feel that new levels of density were appropriate above the existing zoning. And that was primarily in the northwest areas around judges' hill. Establishing a clear menu of community benefits, affordable housing, a key element of those community benefits, and one of the conclusions of the density bonus program which involves a pretty rigorous economic study was that residential could afford to pay into an in lieu fee, but office and hotel could not in terms of achieving that additional level of benefit. And another recommendation that came out of the density bonus program was to reduce the height limits in the warehouse district to 45 feet on that one block. The core of the warehouse district. But to provide as an additional incentive for historic preservation a transfer of development rights program for that area. I'm going to let jim describe the proposed staff amendment, having received a lot of input on the density bonus program, we have proposed and amendment to the density bonus program.

Yeah. We are offering up an alternative proposal compared to what was in our november 2010. And the alternative were modifying much of what we recommended in the density bonus program would remain in place. What we are proposing two changes to that. One, we've come to believe that a prudent thing to do, if the council authorizes us to move forward, with developing the code amendments that would put in place a downtown density bonus program, to simultaneous to developing those code amendments would be to go back and take a look at the financial underpinnings of that program. In essence to recalibrate things like fee in lieu. Are the numbers we proposed the first time the right numbers in light of intervening economic issues between roughly 2008 and now. That's one change we are proposing. We had previously proposed particular fee in lieu numbers and we had proposed recalibration every five years. We think because of the intervening time and because of intervening economic adds to that, it would be good to go back and recalibrate those numbers simultaneous with developing the code amendments that would put the program in place. The second change we're offering up is to take a different approach to cure. As I'm sure you recall, our initial proposal, that which is caipped in the november 2010 draft downtown plan, would be to eliminate cure zoning as a means of obtaining additional density and height. Based on communications we have had among our team, with city staff, with the community and so forth, we're now proposing a slightly different approach to that. What we are proposing is that we would still put in place the downtown density bonus program along the lines of what we would recommend. And any project that wants to achieve additional height and/or density would have that administrative route available to them pursuant to the code amendments that you would authorize us to develop. But instead of flat out eliminating cure as a means of -- as an alternative means of seeking additional height and/or density, what we would propose to do is amend cure simultaneous with those code amendments. And to essentially set up a process through cure zoning where it's still available, but projects that seek to go through and get rezoned to have cure included within their zoning string would enessence need to demonstrate using the density bonus framework that we will be developing, the extent to which their project can comply if you will with that program, how that project would manage itself in the framework of the density bonus program and to identify feasibility issues associated with something less than full compliance. In other words, a project would need to say these the elements of the program we can comply with. These are the elements of the program that are infeasible in the context of our project. So those are the two changes, the recalibration and the different approach with respect to cure that we're offering up as an alternative to what we had originally proposed.

Again, a developer would have the choice of joining administratively through the process, using the density bonus, or going through the cure process and showing how the density bonus -- portion of the density bonus program could be achieved and which could not. Finally, the code amendment zoning changes, we have proposed a whole series of form-based development standards for all of the different building types within the downtown that would pertain to different districts of the downtown. These will replace the current commercial design standards of subchapter e, which now dictate development within the downtown area. That was one of the key directions that council gave us at the very beginning of the downtown plan. And the development standards are really promoting density, liveability and

positive pedestrian environment within the downtown. The second type of recommendation, and I'd like to go through this very quickly, is the 10-year investment priority plan, a public investment in the downtown. And this pie chart here shows the kind of range. We have identified somewhere between 250 and \$350 million of investments, ranging from a significant portion in utilities and infrastructure, parks and open space, and the like. And just to give smu perspective, and I think we've presented this in november, over the last 10 years we have -- the city has spent approximately \$600 million of public investment in and around the downtown to give you a sense of it, but in a whole range of projects. And a lot of that effort has been in revitalizing this quadrant of downtown, the southeastern area, auditorium shores. As you will see in the recommendations for the next 10 years, a lot of that is now being shifted to the northeast quadrant where significant investment is needed. And waller creek is just one example of that. But in the last 10 years with that 600-million-dollar investment, private investment just in that period is over two billion. And it's continuing to -- private investment is continue to go flourish. Four to five million dollars in historic preservation. Some of the key ideas there is update the citywide cultural resources survey, which has not been updated since 1984. This was a key goal that the community addressed that was a need. Affordable housing, major contributions to permanent supportive housing in the downtown, and expanding and creating a staff for a downtown workforce housing program. Contributing to creative culture, creating a role, the central city creative officer role and contribute to go a nonprofit artist housing project in or near the downtown. Contributing to parks, waller creek, a significant portion of that, almost half, but also enhancing palm park, waterloo park, rush square and creating long-term plans for wooldridge square and the old bakery site. Continuing with the great streets program, with particular focus on east sixth street, that ef already begun. Improving congress avenue as part of an urban rail program. Also implementing a downtown way finding program. That is already been initiated. And developing and implementing a first phase restroom for downtown. Parking, we still have believe it or not, many absent sidewalks within the downtown, particularly in the rainy street district. Completing the bike improvements. And many of those have already been initiated and are underway. Completing the two-way conversion, and this diagram shows the streets that are being proposed to be converted from one way to two-way street to create a calmer, more creent downtown. And improving guadalupe and lavaca as major corridor streets and street scapes along those. Significant utility and infrastructure improvements. The need for a downtown drainage master plan. The need for water quality program. We talked in november about the little shoal creek tunnel. Also the idea of creating an annual flexible fund that can reimburse developers for service extension and street reconstruction that can be applied tunist tickly as development opportunities appear. And finally, about five to seven million dollars to fund and to -- to fund and establish a central city development corporation over the next 10 years. And jim is going to describe the recommended governance and management policies or recommendations of the plan.

Yes. This category of implementation recommendations includes recommendations in terms of city staffing, but one of the centerpieces of this basket, if you will, of recommendations, is the notion of creating a central city development corporation. I'm going to -- this is covered in quite some detail in the downtown austin plan, and if the council adopts the plan and directs us to move forward, obviously we would be working closely with the city council in shaping and initiating this organization. So we've condense this had portion of the presentation to two or three slide. I think the fundamental question is why do we need one? We as a city I think have an incredibly good track record of economic development when it involves the creeft actively en-- creatively engaging in public-private pips on publicly owned land. One could literally stand in the spot where we are now and look around and see the harvest of our efforts in that regard. Dramatic improvements in the public realm, buildings all around us, people on the street and so forth. Because much of the land in this area was publicly owned. But there's only -- there's a relatively limited supply of publicly owned parcels, especially city-owned parcels still available for that approach towards economic development. So our thought is that the future of public-private economic development efforts really is going to have to shift from focusing on publicly owned land towards projects that perhaps are not on publicly owned land and are truly a more hybrid approach of a public-private enterprise perhaps on -- even on private land. Nonetheless, certain of these types of projects would provide significant economic benefits, community benefits and therefore are in the interest of the city. So that's the basic case for moving forward on this. We in the downtown plan have recommended three priority areas of work for a development corporation. Obviously this

would undergo further shaping if we move forward with the input we receive from you and others. The first category that we've identified is a priority of what we called strategic infrastructure projects. We're not intent on putting howard lazarus out of a job and taking the place of the public works department. What we are saying, though, is that there are projects often times associated with a particular development project where if we could just work together with the private sector to eliminate some barrier to that project which maybe provides substantial economic benefits or substantial community benefits, if there are things that we the community can do to make that great project happen in an infrastructure nature, whether it has to do with underground utilities, street improvements and so forth, that's an opportunity for an economic development corporation. The second area we propose is workforce housing. That an economic development corporation would really focus a lot of efforts on creating -- maintaining and creating workforce housing. We're using the term workforce housing roughly in the 80 to 120% range of median family income. And the final area -- all of these are areas where economic development corporations around the country are actively working. The final area is to really work on individuals, sort of public-private development projects. Sometimes that's a matter of just providing expertise. Sometimes that's a matter of bringing financial tools to the project that would otherwise not be available. Sometimes it has to do with shepherding a project through the permitting process or something like that. So those are the three recommended areas. And the last couple of slides I'm going to handle are just sort of where do we go from here. What are we asking from you? Not today, but when we do get posted for a public hearing and council action on this, one is adopt a downtown plan as an amendment to the austin tomorrow comprehensive plan. And as jim pointed out, there's nothing in this plan that is a rezoning. There's nothing in this plan that will be before you that is a code amendment. We have recommendations for rezoning, recommendations for code amendment, but there's no regulatory action that we're proposing to take in conjunction with adoption. So we will be seeking your blessing to move forward with certain implementation actions, some of which are the code amendments that jim referred to, creating new zoning districts. Creating a downtown density bonus program. And so forth. We will also -- we will also include to initiate the rezonings that are done in conjunction with creating these new 60 zoning districts. We would also ask for the council's direction or blessing to move forward with taking that second basket of implementation items, that being the one that has a dollar sign on it, to work with the budget office, with the capital projects office to integrate our recommendations into the city's process of identifying, sorting out and prioritizing capital projects. And we're also -- we're already working with the capital planning process in that regard to try to begin to move in that direction. I believe this is the last significant sort of thing that we will be coming to you and asking you to take action on is to authorize the city manager to move forward with the process of creating an economic development corporation. That's obviously something that would be brought back to you because ultimately our vision is that entity would be a creation of the city council. Next steps. Well, the next steps would be posting for the public hearing and possible action. I think several weeks ago you already took the action of putting this on next week's council agenda. But beyond that, we begin implementation. So in some ways our work is by no means concluded as of where we are right now. Thank you. And we're happy to answer any questions.

Mayor Leffingwell: Okay. I'm not sure i completely understood your discussion on density bonus and cure zoning. Let me tell you what i understood and what i hope I understood correctly. And that is that if a development wants to exceed the height and/or limits, they can be granted administrative approval if they meet certain density bonus criteria.

That's correct.

Mayor Leffingwell: The second part is cure zoning would still be available, but would have to go through the process it's always gone through, which is staff evaluation and recommendation, planning commission and council approval.

Cole: I want to thank you for all the work you've done and also to say not only to you, and I know that you are aware of this, but to the public in general, that the vitality of our city is austin measured by the vibrancy of downtown. In many other cities throughout the nation, large or small, such as the one i grew up in, as the jobs move to the suburbs and as the people fled because of the jobs and so did the

transportation and with it was replaced crime and other deterioration. So the question comes up why are we doing this is because we're trying to avoid that situation. And we have many assets downtown such as the capitol, lady bird lake and our signature creeks both waller creek and shoal creek. So with that sort of context and realization that downtown in many ways is our number one asset that we have that feeds the rest of the city, the mayor brought up the density bonus. And I know that there's been significant discussions about it. And the real sticking point is what are we going to do with the density bonus and also have affordable housing. So can you speak to that just in terms of the different arguments that are still out there is this.

Well, as jim, I think, pointed out and it bears repeating, a goal of the density bonus program -- or let me say one of the things that is not a goal of the density program is to stifle density downtown. That is not the goal. It is clear public policy and we have taken this to heart that we are a city who wants to accommodate redevelopment, that wants density downtown. And there's a host of reasons why we want that and you've alluded to a handful of them there. Now, the basic philosophy find, no height limit, a project, if that's what they want, they can do that, they don't have to ask staff or planning commission or council. But if you want to go beyond that level, the basic philosophy behind the density bonus is the community saying that's share the additional benefits created by that additional density. And a density program would be a failure if it extracted from the project all of the incremental benefits that a project was going to recoup by additional density. But any rational developer would say why would i undertake all this risk from all the benefits of that risk are extracted from me. So we've tried to identify a program that creates an equitable sharing between the community and the project and the additional benefits of height and density. One of the things that we've offered up and we would like to propose as a change from what we were originally pro possession is to go -- propose ing is to make sure any program we put in place does accomplish that goal which is this equitable sharing. We don't want a program that nobody would ever participate in and never seek additional density if because they would recoup no economic gain. To be a success there has to be an equitable sharing. That's the rationale behind the proposal for recalibration. Now, I know -- and we continue and -- to, you know, have discussions with stakeholders, property owners, business owners and so forth about this issue. It's a live issue. I would be deceiving you if i said we can all join hands --

Cole: I asked because it was a sticking point. I'm not asking you to solve it right now. I really just wanted to point it out as a sticking point.

And we think it would be prudent especially in light of what's happened in the local, national and international economy to do to recalibration. To make sure that we achieve that fundamental goal which is a sharing of the benefits rather than an extraction of all of the benefits.

Cole: Let me move to another item which was have discussed some which is the cocktail lounges. I'm most familiar with that in rainy street area. You talked about trying to limit hours of operation and work with tabc and building code changes. Is there any other alternatives that you can see because I know that also is somewhat of an issue among the stakeholders.

Yes, it is. As you know, the original recommendation in the november draft of the downtown plan was that we address this issue, the issue being ill effects of an overconcentration of cocktail lounges by requiring cocktail lounges to seek and obtain a conditional use permit. As of right now in cbd and zoning a cocktail lounge is permitted and no additional permit use is required. We've changed our recommendation there. We still believe that this is an issue worth pursuing, that there are ill effects of overconcentrations of cocktail lounges. What we're saying instead of let's make conditional use a way to go, back off a step or two, look at the range of options, some of which you've talked b there may be other things like looking out is there approaches we've taken with other uses in terms of proximity to certain things, there may be transportation issues that should be on the table in this discussion and so forth. So I can't say that standing here right now I know the answer and that's why in terms of exactly what approach is the right approach, which is why we backed off a little here and say we're going to go out, do additional stakeholder input, talk to business owners, property owners, neighborhood

associations and so forth to figure out, to really brainstorm and figure out what is the best probably tool kit, it's not going to be a single tool, to address this issue.

Cole: Okay. Thank you. I really do appreciate especially the last part of what you said about being willing to go out and do additional stakeholder input so we get that item right because I think it's a significant issue to downtown. You also talked about the economic development corporation, and I know at this point we're not getting into any of the details of that, but can you give us a sense of the time line for that?

Well, there's several -- there are legal issues that would need to be taken care of. In other words, typically under texas state law, and i can't cite you chapter and verse of the texas state law, but under the local government code there are entities, local government corporation typically that need to be created. So you have to go through the process of incorporating a local government corporation and so forth. Other economic development corporations around the state of texas like midtown in houston, midtown and uptown in houston, hemisfair park and the central city one in dallas, I can't remember the name, have gone the route of the local government corporation. So there's a legal requirement of going through that. But probably much more nuance and complex than simply creating is what ought to be the primary focus areas of this corporation. You also have to decide is there a geographic area within you want this corporation to focus its efforts. You also have to think about the governance structure. Typically these organizations are a creation of city government. In other words, they are chartered, if you will, by the city council. But you have to figure out the governance so that you obtain the benefits of having an organization like this. The -- perhaps the nimbleness if you will, the entrepreneurial nature of the organization which you want it to have but you also want to make sure that you have a leash, if you will, that allows you to make sure that this organization fulfills the -- the priorities and the values that you instill it with. Those things are probably the longer efforts. Having all said that, I would imagine that this is something that could unfold over a matter of months. I don't think we're talking about years to get this done. But it would be an interactive process involving city staff and council. I'm seeing the city manager smile on that. Didn't bite off too much for us there.

Cole: Okay, jim, again, both jims, I appreciate all your work and I know there's been considerable progress over the last couple of months, especially among the stakeholders in that you've worked very hard to reach out to the community and I think that can continue, but knowing that we still have some major sticking points with the density bonus program and the warehouse district and the implementation strategy and the economic development corporation, I don't think we'll be ready to actually vote on the plan next week. I think that will be a mistake. [Applause] and again, you well know that I'm just sensitive to the idea of studying the study and planning the plan and not really having all of us have the opportunity to meet with the stakeholders and understand the issues that we are creating and being able to explain that to the public, and that still recognizes that you guys do a great job of that, but sometimes you have to understand that we're the ones that get stopped in the grocery store. And so -- [applause] and so with that, I want to say again thank you for your work and I'm done, mayor.

Mayor Leffingwell: Councilmember tovo.

Tovo: Thanks. I want to thank jim and jenna McCANN WHO ARE THE Consultants for the project as well as jim robertson and the other staff. I've had the opportunity to participate in the downtown plan as a citizen in a lot of community meetings and a planning commissioner so it's really exciting to see the plan get to this stage and really to think about the exciting vision that's contained within it and how it will transform what one of you identified as everyone's neighborhood. That being said, I do have some very strong concerns about what you've just said about the cure changes that are -- that you are proposing here today. This is kind of news to me. I didn't see this in the staff recommendations that were part of the backup material for the planning commission meeting last spring. And jim robertson, I wondered if you could give us some sense of when this new recommendation came forward from staff to make these additional changes to cure.

Just if I could -- before I get into the substance of your question address something that may be on your minds and other minds as well. Given that this was a briefing today, we didn't load the backup -- we didn't load you up with backup. When -- when the time comes whether next week or thereafter for the public hearing, possible council action and so forth, you will have a very robust backup which will include a whole lot of things including a set of staff recommended amendments, and I believe that was presented to the planning commission in April. Now, of course, this item was not on there so this is an item that we've continued to work since April and that's the reason why in the list of staff amendments there will be a handful of items at the end, and they are clearly designated as such, as items that were not implemented to the planning commission. We wanted to be fair to say these are the staff recommended amendments that the planning commission acted on. These are the ones that have come forth since that and this would be one of those. You'll see that when you receive is backup for the public hearing and action. Now I've got to get back to the substance of your question. The cure. So this is subsequent to April 26th when the planning commission acted, and there's a few reasons why we have done this because we've continued to talk to other city staff, we've talked among ourselves and stakeholders and so forth.

Tovo: Which stakeholders? If you could give us a sense. I'm asking because we all received a letter from Heather Way that includes the names of some other affordable housing advocates like Frank Fernandez, Austin Women and Housing that suggests that she's not aware of this change. I'm just wondering if the affordable housing community have been involved in these subsequent discussions taken place since the planning commission meeting in the spring.

I wouldn't say directly. We've taken that into account. There's a lot of work, for report and so forth has been a good resource document to us. But -- but we haven't had per se stakeholder meetings with a group that's identified as an affordable housing stakeholder group. We wanted -- I mean one of the main things is we wanted to make -- we've received a lot of feedback both before April and after April about the economics of this. Are the economics of this proposal sound. And I tried to stress that that's a key element to it. If you get that wrong, the program is a failure. And so one of the -- instead of in one fell swoop putting a density bonus program in effect and abolishing cure, we thought okay, this could be a transitional step. We could put in place a program along the lines that we're talking about. Cure would remain in place. We would accomplish some goals, projects that want to handle administratively go get it done. But in the meantime, having cure available in some ways might allow us to continue to refine and calibrate the program because for the cases that can make a legitimate case that they cannot proceed through the administrative route, we would be gathering good data. What are the elements of this program that don't work for that type of a project. You know, I'm not saying down the road we might decide we don't need cure anymore. But we thought that a perhaps interim step would be to leave cure in place and in addition to accomplishing the fact that it continues to provide some flexibility to the council, but also it -- it gives us a useful source of data moving forward in order to make sure ultimately a program is in place that's functional. That's the basic rationale. And you know, as I said, we've offered that as an alternative for your consideration.

Tovo: I guess maybe Adams, could you talk about the rationale for it. In my mind, and I'll probably say more about this in a minute, but in my mind we've had a transitional period. We have an interim density bonus program that we have had zero success with developers using in part because they come and they seek cure zoning and it's been granted probably in 100% of the cases. So we've had this transitional phase and we've seen that having that alternative has been a failure in doing what we -- I thought we had -- you know, what the community had said they wanted to see which was a density bonus program that would encourage affordable housing. Could you speak about the original rationale in making changes to cure and make sure we're understanding why the initial proposal came.

I think Jim explained it. There is a goal coming out in the comprehensive plan that we really want to concentrate density in the downtown and incentivize density in the downtown. As you mentioned, the interim density bonus program has not been successful in terms of attracting folks to use it. They've elected to go through the cure process in all cases. So what we're trying to do here is to say we want folks to use -- we want to calibrate the system so people will use the density bonus program, we want to

calibrate it so that we are sharing in the upside and not extracting all of the upside. And that is not -- that's subjective in some cases. You know, we think it's going to work, but we don't know for sure if it's going to -- there's going to be a testing period, as jim pointed out. So what we felt was this interim kind of compromise position instead of having a cure system as it exists now which is kind of a free for all, we are establishing some clear criteria for that process. So a developer wanting, believing that they cannot achieve all of the components of the density bonus program could -- will have to demonstrate to you why they can't achieve all of those components and which ones they can achieve. So we believe, as jim, i think, said very well, this is going to allow us an opportunity to test the density bonus program. Our goal is still to have developers wanting to use the density bonus program because it will be easier. They won't have to hire an attorney to take them through the process. That we believe that it will provide a more expeditious approach to achieving density. But if the calibration is not correct, people will still want to go through that process. So this is a -- it is an interim strategy, but it is providing more criteria and rigor on the process in still achieving the goals established in the density bonus.

Tovo: I assume we'll have more time to talk about this before we vote on the plan, but are you familiar with cities like seattle and chicago and boston and arlington and other cities that have density bonus programs? Because they are all -- they are able to encourage development, but still have a density bonus program.

Yes, and I think we looked to all of those cities as example and one of the things we were advised is,, you know,, a city coming into maturity like seattle, can do this because they can -- there is sufficient demand to build in the downtown and not in other areas. So we have to make sure, and this was one of the recommendations from our consultants, as we bring in a density bonus program to austin, we have to make sure that it is -- that it's calibrated correctly. And even those cities go through periodic recalibration and review. So -- and they have had those programs in place for many years. We are now just introducing it and so it's important that we get it right and it's tailored to the economic conditions of the downtown. So that we achieve both our goal of concentrating density but also in sharing in the benefits of that additional density.

Tovo: I have one last clarification. robertson, if I understand you correctly, I just want to be sure, so the planning commission did not review this change though they had participated in, you know, small groups affordable housing stakeholders around this issue, but when they reviewed the plan, the change to cure was not in it.

That's correct.

Tovo: So the community development commission also has not reviewed the plan with this in mind.

That's correct.

Tovo: Okay. You know, and I would say with all due respect mayor, I do not regard this as a positive change. I think we've had -- again I'll refer you to the letter that we saw in our -- through our email from heather way talking about the process of the density bonus program and the stakeholders the real estate community, the housing groups and other groups and they came to what was a compromise position in developing the interim density bonus program, but at the same time, you know, that has not been successful in part because we've allowed this other option to exist. And, you know, if you are asking developers who are seeking increased entitlements to provide some community benefits, but also allowing them the opportunity to come here and ask for those same entitlements with no community benefits, it's pretty clear what option they are going to select. You know, almost 100% of the time. So again I've participated in some of the affordable housing discussions leading up to the downtown austin plan and I saw what was in the downtown austin plan as a kind of compromise. There were some people who thought fees in lieu should be higher, some who thought the commercial should be part of the program so to dilute further is not in my mind, you know, the right way to proceed. I think we've all acknowledged there's a housing crisis in this city and we need to provide more housing

opportunities. We can't do exclusion anterior zoning by state law but one of the tools we have available is a density bonus program and i think we should take a strong stand out and I think we can do that and still encourage development and so I hope we'll continue talking about this and I really hope we will hear from some of the stakeholders who have been part of this process for a couple years who are even now not aware of this change. So thank you. I appreciate the information, but I do -- this is a real serious area of concern for me.

Mayor Leffingwell: Other comments? Councilmember spelman.

Spelman: I'm in the odd position of understanding both sides of this argument. I can see why there might be very good reason for having cure as a safety valve and i can understand reasons why we want to really clamp down on cure or even eliminate it entirely. And to help me understand where we are on this, I will ask a couple of real specific questions. You were talking about want to go recalibrate the density bonus program which I can understand recalibration every few years and certainly there have been a lot of changes since the density bonuses were promulgated a few years ago. What sources of information will we have available when we're trying to figure out what value a developer is going to get out of the 20th and 30th floor of a building?

What we had in doing the original density report, people focus at the 32 or so pages of that report, but that report was accompanied by i believe about 75 pages of hypothetical projects. That we used to try to arrive at, you know, what jim and i think have characterized as this equitable split of the up side of the additional density. We believe that the recalibration essentially can use that same tool, that same set of formulas, but make sure that we are running today's economic conditions through that. And that may have to do -- and it will become immediately clear, I'm not an economist or a project financeier but it may have to do with expected rates of return, with interest rate, with the relative proportion of equity versus debt that a project is expected to take on today versus what was expected of a project back in 2007. So we have the -- we believe we have the framework, the framework but what we would propose to do is essentially utilize those same formulas but make sure we are using economic assumptions and data based on today's conditions.

Spelman: That sounds like very good sense to me and certainly the proforma, they are almost cookie cutter but the key issue is what data goes into those little boxes.

Yes.

Spelman: And the data that go into the boxes today are very different from the data that went into the boxes two years ago or certainly five years ago. I suspect they are going to be changing maybe not from hour to hour but from year to year for the next two or three years before our economy stabilizes and we have a sense what to expect. We seem to be in a state of flux even in the last couple weeks. Can we reasonably expect to recalibrate now for the next five year or for the next two years or how long --

well, I think our recommendation in the density bonus report was that a program ought to be recalibrated at a minimum of every five years. But I think it would be -- i presume it would be within the discretion of the city based on rapidly changing economic decisions to decide to reare recalibrate on a more frequent basis. We ought to at least give ourselves a reminder every five years it's time to do it if you haven't done it recently.

Spelman: I would imagine our experience would give us a reminder as well. If we found nobody was taking advantage of the density bonus program, everybody was seeking cure or nobody was even trying to do cure, they just build up to the limit without a bonus, that would be suggestive that our calibration was in error and we needed to go back --

that's correct. You get feedback just by observing either whether the program is being used, and some

cities who have programs in place oftentimes recalibrate on a more fine basis if they have a sort of menu approach like we have proposed. If a particular item on that menu, let's say historic preservation, never gets utilized, that may be a wake-up call you need to go back and look at that item and figure out is there something about the economics or something else about this as suspect that poses the reason why it never gets used and that may be a call for looking at that and perhaps recalibrating that particular piece rather than the entire program.

Spelman: What kind of through-put, how many buildings are we expecting to build downtown up to a five-year period?

Oh, I -- that's a reading, tea leaves. If you had asked me that question in 2006 I would have said look around, there are cranes everywhere. Now -- I don't know the answer to that. I think the local, national, international trends will dictate that rather than any projection we might make today.

Spelman: I understand your reluctance to pick a number but I want to make sure a large enough experience base we will be able to do a recalibration in a sensible way.

If you look at the last two or three years while we've been at this, there have been a number of cure cases, for example, that have come before the council. I don't have an exact number. I would guess it's in the 8 to 10 or 12 range over the last few years. If it continued at that rate, that would give -- that's at least if the past is any prolog to the future you can expect a dozen or so cases go through over a two or three-year period.

Spelman: We're talking about a dozen cases, that would give us a sense for at least some aspects of the den program but it would give us a sense for whether or not the density bonus program relative to the cure safety valve was properly calibrated. Let me ask you about that for a second. One of the things that developers have been telling me for years is that you can put together a proforma of an average project or in our case wealth calculate density bonus on the basis of an average project but there are no average projects. And our calibrations because they are set to sort of a hypothetical uniform will never quite fit anybody else and that's one of the arguments they are going to throw at us as to why they need cure on every project because they don't quite fit. What kind of standards can we hold developers to with respect to usage of cure to keep it as a safety valve and not have it be invoked for every single project?

Well, one of the things, and I hope in my answer to the mayor's question earlier on i characterized this properly is while this proposal that we are offering up would retain cure in place, you know, planning commission, council and so forth, we would propose along with developing the density bonus program to develop a set of code amendments to cure to provide some structure to that -- to that community analysis. To the analysis done by the community, the planning commission and council and so forth. So instead of being I think jim said a free for all or ad hoc bargaining, that we would require cases that come through that route for cure to measure themselves against the density bonus program. And they would -- and i suppose if you want to look at it this way, the planning commission, council, would have the ability to if you will hold the feet to the fire of the project to say tell me what it is about this -- let's say the affordable housing element. What it is -- how much of that can you provide and you need to give me some assurance that the portion that you are saying you can provide, you are speaking the truth there. And so I think that's the leverage and the frame -- both the framework and the leverage that we believe might make this a legitimate approach at least as an interim approach towards a program.

Spelman: Okay. So basically show me your proforma, justify your assumptions, prove you can't use a density bonus program.

Or prove to us you can't use all of the density bonus program. I think it would still be incumbent through this revised cure process for them on to use as much of the program as they can. It's not an either/or.

Show us which elements are infeasible and convince us of that is the idea.

Spelman: You are talking about the density bonus program has always been and what you are still proposing is a menu of options. So if you don't have an average project, there may be a way of working the menus such that you have flexibility there.

But 50% of those benefits must go to affordable housing if you are going to go through the administrative process.

Spelman: Right. And there's going to be --

but you have that other menu of things you can use.

Spelman: Right. Last question. No, never mind. I'll hold the last question until later. Thanks very much. Appreciate your help.

Mayor Leffingwell: I was just going to say, the process you just outlined for cure zoning, the new process or is that revised process makes it a totally different animal from what we have today.

And I apologize if my earlier answer didn't clarify that.

Mayor Leffingwell: I think the key difference, as I understand it, correct me if I am wrong, is that the council can't engage in contract zoning. So unless there is some provision in the law you can't say we'll give you cure zoning if you'll give us, you know, a park or x amount of affordable housing. But if it is embodied in the law, that does put that discussion in play under this revised ordinance where it is not in play now. Fair enough? Councilmember Morrison.

Morrison: This is an interesting discussion and I want to start off by saying I share Councilmember Tovo's concerns and I think there is fundamentally a logical flaw in trying to do this as a transition and leaving cure as a transition. And I've spoken about this, what I perceive as a logical flaw in this with several downtown developers who have agreed with me and they might not agree with me on the record, but they have agreed with me. And the problem is, and I appreciate that we would ask those folks to show us the numbers and why is it that certain parts of the density bonus program wouldn't work for them because as long as they can come down and say the price that I have paid for this land or the price that I have to pay for this land allows them -- disallows me, makes it infeasible for me to participate in the density bonus makes it infeasible for me to provide the affordable housing because of the high land value. As long as that high land value is in there and the council then has an opportunity to say, oh, okay well, we'll let you go through on cure, then those high land values are going to continue to drive. Because the flip side of that is if we put in to place clear expectations about the community benefits, and it has to be done in a fair way, absolutely, then the land values will balance out because you won't be able to ask for something that will then preclude you from doing the density bonus program. So if we allow a transition, we are going to allow the circular phenomenon that makes it infeasible to do the density bonus programs. So I know this is probably going to need some more discussion, but, you know, frankly you could look at it as sort of like speculative land values. Folks know they can come down and get the density they need to support the high cost of land. So I'll leave it at that, but I'm very concerned about that. And I am concerned about the fact that we haven't had the opportunity for, you know, we have three years of conversation about it and come to some kind of compromise and haven't had the chance to work it through there. I guess I do have -- because I think that the planning commission and the CDC, you know, they have important expertise in this area. But I guess it does raise a question from me, Jim, what other pieces of the staff recommendation that will be before us or that are going to be -- are before us are -- were not considered by the planning commission?

I think with regard to the density bonus, I believe that's the only thing. I mean there have been or our

staff recommended -- you know, amendments the staff is recommending includes some of the things but they were presented to the planning commission. For example, a year or two ago the city council passed a resolution directing that the downtown density bonus program include a provision for green roofs. So that's -- that's one of our recommendations is that as we move forward and develop a program, it would include an element for green roofs, things like that. But in terms of anything that wasn't presented to the planning commission that has arisen since then, the recalibration and the cure item are the two.

Morrison: Okay, I appreciate that, and I agree that the recalibration on a regular basis as needed basis is critical to the success of this and I think if we do that right, if we have a process for doing the recalibration and monitoring what's happening instead of what I consider would be to neuter our density bonus program. Make sure we're doing recalibration on a timely basis is a much better approach to achieving what we really I think all are -- have a consensus on what we want to achieve. One other different topic, can you help me understand on the economic development corporation, this is sort of a new beast for the city of Austin, can you help me understand why we wouldn't just have the city do that? Why does it have to be a separate entity?

I'll take a shot at that and then after I muck it up, Jim can clean up. Typically -- and I don't claim to be an expert. We have members of our team who have done quite a bit of work and it's reflected in the downtown plan itself, so with that disclaimer let me move forward. There are certain -- there are a couple key differences between the way economic development corporations work and cities work. All of which are designed to allow the organization, the economic development corporation to act in a more nimble manner. In other words, perhaps respond to new projects arising, changing conditions more rapidly than a city can because some of the either bureaucratic or other legal restrictions so that's one difference. Another difference the economic development corporations, especially as they mature over time, oftentimes become self-capitalized. In other words, they wean themselves of -- of city funding. Typically they do receive city funding up front whether it's capital or an ongoing annual thing. But over time oftentimes they become self-capitalized. And in that capacity -- and I suppose that relates to my early point. That allows them to act more nimbly. For example, some economic development corporations early on in their life actually create assets of value. Could be no more than a parking structure, a parking facility that produces revenue, an ongoing revenue stream that can be capitalized and therefore that becomes an income for them. This is maybe a distinction without a difference, but the staffing of an economic development corporation is very key. You actually -- depending on the core missions of the organization, and we've laid out three core missions, but you want people on staff full time devoted waking up in the morning devoted to that thing. And I'm not saying the city couldn't do that, but there's a level of focus probably that economic development corporations can bring in that regard that is challenging for cities to bring. I don't know whether Jim wants to elaborate.

I think that's what -- and I think the idea is that they form a bridge between city government and -- and the development community aimed at helping to facilitate private development projects through a public process, providing expertise, specialized expertise to achieve particular community goals that the council would, you know, would set forth. So focusing, for instance, on workforce housing and really trying to assist in getting the gaps, the economic gaps that are providing barriers to a project, a workforce or affordable housing project, helping to overcome those barriers and the like. So these have been very successfully employed throughout the country and even in Texas, as Jim pointed out in Houston and in Dallas and in San Antonio. And I think that there's still quite a work to be done as to define the specific mission and the structure, but we clearly believe that it's the step that needs to be taken now to help implement the policy for the plan.

Morrison: And let me ask also another question about their independence. We have, for instance, the model of the Austin Housing Finance Corporation where the council are the board of directors, but we also know community development corporations that are much more separate. And I can see certain similarities to what you are talking about to both of those. Is there -- are you thinking that the council is still involved in the governance structure of this or is this something where it would be completely

different.

I think there are different models from that and I think each municipality strikes its own balance in terms of trying to get the best of both worlds. And when I use that term best of both worlds, what I know is endowing the corporation with the agility and entrepreneurial spirit, if you will, that accomplishes those goals while at the same time retaining the degree of oversight to make sure that this organization -- doesn't go rogue. And I think each community strikes that balance differently. A lot of economic development corporations, the board is appointed by the city council. And I don't know if -- jim may know the answer, whether some examples where councilmembers sit either as a voting member or ex-officio.

Usually smaller communities. But in the examples and the texas examples the boards are appointed or separately and usually appointed by council or there are structures for the council to control the membership of the board. That all yet has to be worked out. We have not gone so far as to make those recommendations this the plan.

Morrison: Clearly we have a vested interest in how that all unfolds once it's developed, assuming that we -- assuming we go forward with that. And finding that balance. I mean if we're going to be -- the recommendation is we put some of the city's money in so we have a responsibility to ensure that it's invested appropriately. So it seems like looking at our options there is going to be really important.

Absolutely. And that's why I wanted to stress that it would probably be an interactive process of setting this thing up. Reminds me of rearing a child. You know, you want to grant independence, but you also don't want a leash of unlimited length.

Mayor Leffingwell: It's my understanding from your earlier discussion this is not an item that we'll be considering next week.

No, we wouldn't --

Mayor Leffingwell: This is down the road.

We don't have a fully hatched item for you to vote on. We would like your breast to go move forward and begin working towards that but no, we would not have something ready at that time.

Mayor Leffingwell: You mean some blessing other than council action. And we are at our 12 noontime.

Morrison: If I could just say thank you. I just wanted to get a better feel for that because it's a new beast. And for the record, I bet you wake up in the morning and think about downtown.

Sometimes early.

Morrison: Thank you.

Mayor Leffingwell: So we're going to have to table this -- let me just ask, do councilmembers have any additional questions? All right, so there will be more questions for you this afternoon later on.

Thank you, council.

Mayor Leffingwell: After 2:00 sometime. So it's 12 noon. We'll go to our citizens communication. First speaker is george lecrenn. Water fluoridation.

Hello. My name is George LeCrenn. I wanted to talk about water fluoridation today. I'm a concerned citizen. Basically I would like to encourage the council to move forward and get the four votes necessary that you alluded to, Martinez, to put it -- make it a ballot initiative for the people of Austin to choose and decide on this. Which is actually exactly what the city of Spring Hill, Tennessee, did this week, where they unanimously voted to remove fluoride from the drinking water. And they also did that in Oregon in May. If they can identify, we can identify, we can do it. Basically it's highly unethical to mass medicate the people without their informed consent. It's a violation of our freedom of choice. So if I want to put fluoride in my water, then I should have the right to do so, but you shouldn't force it on me. Fluoride is readily available nowadays in dental care products that are very inexpensive. And what we should be doing is encouraging people to brush their teeth with inexpensive toothpaste. If you look at comparison to countries that don't add fluoride to their drinking water, the trends and the patterns for tooth decay are virtually identical. It's because they are brushing their teeth. So fluoride is good when it's applied topically, but when ingested it causes a lot of health problems such as dental fluorosis, bone cancer, in children, Alzheimer's disease, thyroid disorders and arthritis. So basically by adding fluoride to our water, you are making people sick. [Applause] Also we'll save will \$490,000 a year by not fluoridating the water. And about -- only about 1% of the water that's produced is consumed as drinking water. That means about \$485,000 a year is going down the drain, literally. I would encourage you to research it for yourself, look up fluoride action network at www.fluoridealert.org. Thank you. [Applause]

Mayor Leffingwell: Next speaker is T.O.D. Wroblewski. Councilmember Martinez.

Martinez: LeCrenn I just wanted to follow up on that. I need to make it clear that four councilmembers and seven councilmembers cannot call for a nonbinding referendum on an issue. In order -- we can't use taxpayer dollars on election for nonbinding referendum. If we want it to be paid for by the taxpayers, it's going to take enough signatures from citizens to call for an ordinance to be put on the ballot to ban fluoride from our water. I need that to be made very clear. We can't entertain a at some time to call for a nonbinding referendum.

Okay, and how many signatures would we need?

Martinez: For an ordinance.

Mayor Leffingwell: About 40,000. 10%.

40,000?

Martinez: 10% Of registered voters in the city.

Okay. Thank you.

Mayor Leffingwell: Todd Wroblewski. Todd Wroblewski not in the chambers. Kurt Blaschke. Did I say that right? Kurt's topic is environmental issues related to Barton Springs pool.

Hello, my name is Kurt Blaschke, a long time resident of Austin and I swim laps at Barton Springs every day. I care deeply about the springs and its aquatic life and I'm here today to ask city council to certain types of chemical sunscreens from Barton Springs pool. I'm a graduate of the geography department at Texas State University and have been involved in water preservation with the department for the past decade. In the last few years I've become aware of many studies showing the dangers of different chemical sunscreens to aquatic and even human life. Andy Sampson, director of Texas River Systems at Texas State University has sent me 22 studies that show these chemicals are hazardous to all types of marine life. There is also a recent showing that PABA ester in combination in sun slight damage to humans. That's a common chemical found in sunscreens. I have afforded these studies to -- forwarded these studies dresses in and in a phone call she agreed this is an issue that needs consideration in

relationship to renewal of the fish and wildlife permit for Barton Springs pool. I can also forward these studies to council if necessary. I'm not advocating that we ban -- we need a thorough investigation. Reefs around the world have banned these chemicals. A couple I swim with returned from a trip to Guatemala and Mexico and informed these sunscreens were banned. There are alternatives. Titanium and zinc dioxide. There are new swim shirts and other clothing about built in UV protection. These items could be made available for a Barton Springs store. For these reasons council should ask watershed protection to review the science on effects of chemical sunscreens and whether a ban.

Adrian Moore.

Mayor, council members, Adrian Moore, executive director of the Council on at-Risk Youth. I have a handout program evaluation conducted by the University of Texas I wanted to chat about. Cary is devoted to helping youth promote safe schools and communities. We go into the Austin SD school disciplinary system and work with severely abused kids who are in the system. We use an evidence-based national program called Aggression Replacement Training. It's held up by several universities and several federal government agencies as being science-based, evidence-based that gets results. We work again with 600 of these very, very difficult, challenging kids each year. We have a 12-year partnership with the Austin School District. We have received excellent evaluation ratings by administrators there. We have a six-year contractual relationship with you with the City of Austin. We have received excellent outcome measure reports through the years. We received excellent financial audits also. Unfortunately we were not recommended for continued funding beyond the April 1, 2012 period of time. The evaluation that you have is the fourth that's been conducted by several university groups. Consultants found that Cary program graduates come away with statistically significant changes, improvements, reductions in overall disciplinary reports, reductions in serious disciplinary reports, reductions in disciplinary actions, improvements in school attendance rates. On Tuesday of this week I shared with the Council Committee on Health and Human Services a copy of the study completed by the Council on State Governments. Breaking school rules. They indicate one of the most serious problems in our school disciplinary system is that kids come through that passage directly into our juvenile and criminal justice system. I've shared that information from other research with you earlier. We have considerable knowledge, information, research. We need a prevention and intervention infrastructure working with these high-risk kids who go through that gateway disciplinary system into our juvenile and criminal justice system as very, very high cost to all of us. We have an opportunity, we have a good model with the Cary system. We have good data, good evaluation results. We have the evidence-based program. We have an excellent return on investments. We're a sole service provider for this type of program initiative. So we do need your support for continuation. April 1, 2012. [Buzzer sounding] Thank you.

Cole: Thank you. Our next speaker is Miss Neeshae Horton. I'm sorry, Robert King. Robert, are you -- please come forward. You have three minutes.

Thank you, Council. And I'm sorry we don't have a full Council because the point I'm going to make one more time because I don't give up easy and you know that about me, is that this is apparently the only forum in which I can talk to you about what Adrian just said. And he's the expert in criminal justice, but let me put it in plain terms. We're working with 600 kids that we know will be in jail here in town or someplace. They will cause damage, they will hurt people or property and they are going to cost a lot more down the road if we don't give them attention we're giving them now in middle school. We've only asked 160,000 over the last several years from City Council and you've kept the program alive. 600 Kids. The County has also kicked in a similar amount that allows us to go on, but this program is going to die or be crippled if we can't find a way to go forward. Our understanding is we were not picked in the original round in part because we got a -- were docked 10 points because we're only preventive. We don't -- and I know times are tough. We're not one of the fingers in the dike for the leak that's happening now, we're not feeding hungry people, but it's not going to get by without us. I've put thousands of dollars of my own money in this. I've been the chairman of the board. I'm unpaid and I think it's unfair what I can't come to talk to you about how to resolve this issue. We've gotten some feedback from staff or others that perhaps something like this that really is preventive of juvenile justice expenses could end up in another

department budget rather than human services or whatever we call it. And as I mentioned and I think you know the police chief is on our board. He's supportive of this. He knows how important this is. He's been very valuable and a real participant in it. But he and I don't think we can even come talk to you legally under the determination you've made about this. This should not be like a vendor and I'm not a paid lobbyist so I would like to take the rest of my three minutes for you guys to tell me how do we talk about this, how do we resolve this or should I go away?

Cole: King, I don't see the charge of health and human services, but him he could explain the rules.

I think I get the rules, but do you really mean not to talk about this then?

Cole: Do now?

This is our opportunity, as I understand it.

Cole: One second here. Councilmember Martinez.

Martinez: Yeah, I think I can add a little bit to this as chair of health and human services. Obviously we went through the contracting process and that silence. Now that we've already -- now that we've made the decision to move forward with the staff recommendation, there's a cone of silence because we've asked staff to go to nonprofits as they see if you could partner approximate another agency or find other sources of funding. Until that conversation takes place and completely done and staff has made final recommendation that will be the point we can engage in discussions if we haven't closed that gap, starting in April of 2012, if we haven't identified funding beyond that point, that's when we begin discussions to try to figure out how to keep you guys operating to full capacity.

Just to make sure I understand, so are you saying though that we should wait until April?

Martinez: No, no.

So we will be contacted between now and then by staff? Or we can contact staff.

Martinez: Your single point of contact is who you should be talking to.

And we have, and I guess their advice was that we should look at other departments, but the police chief and I both believe under the current rules that we're limited in what we can talk about with each other, with you guys, you know. So I'll try again, but I'm going to be back.

Mayor Leffingwell: I think what you need is legal advice so we can have one of the city attorneys get with you and give you a more exact explanation of that. Can we do that? We'll have one come out and talk to you.

Well, thanks, I would really appreciate that. I heard some discussion when we had the first discussion of this that you were going to look at the legal ruling too though and determine whether, for instance, a board member like me that is not a paid lobbyist for a vendor is really subject to this.

Mayor Leffingwell: Right, well, that is not the case at this moment in time so, again, we've gone to get a town to talk to you. So -- councilmember Morrison.

Morrison: I did want to add on Tuesday when we are what our meeting and one of the things I asked our assistant city manager specifically how was that going to work to search out other departmental support. It was my understanding at that point that he said that it was through the single point of contact that they

would help you sit down with health and human services and help you branch out and talk to other departments. So I think it would be helpful if we could circle back around with the assistant city manager on that and I'll make a note to ask him myself about that.

Mayor Leffingwell: In the meantime, we have an attorney on the way out.

Great. Thank you very much. I'm not sure I'll remember the names you two mentioned so is it okay to contact you for that name?

Morrison: No, I will contact -- let's just be real careful here. But I will contact mr. lombrais.

And ask him to contact me.

Mayor Leffingwell: Next speaker is neeshae horton. Not in the chamber. Carol anne rose kennedy. You have three minutes. Don't approach the dais, please. Pass -- pass it out to the clerk.

Welcome back, council. Thank you for having me. The austin transportation department is awesome. They are giving me street signs right in front of my house that are bigger and better than I asked for. And when they get done with the job, I'm going to be back to highly commend them. I would like to tell y'all about the moment I shared with caesar chavez. California 1972. I was fixing to graduate from urdlane academy in dallas, texas and I was plan to go come to the university of texas in austin in the fall, put my money down, got accepted. A week before graduation i woke up and I said I ain't going to college, I'm going to california. So I graduated, I hopped on a greyhound bus, kissed my family good-bye and went to los angeles. The farm workers met me at the bus station in los angeles. I started work right away. After about a week I showed up for work at a giant los angeles grocery store to boycott lettuce, hand out leaflets and talk to people. About half an hour after I was there, I heard that cesar chavez was on the property. So I looked around for him. I found him immediately. And I just watched him. About another half hour later I walked up to him. I had on some kind of t-shirt, cutoff blue jeans and bare feet. I walked up to him and I said hi, I'm kennedy, I'm from texas. And he -- he -- right here for me, he's so little and so cute and he was right here. And he looked down at my bare feet and he looked back up at my face and he said where's your boots? That's all she wrote. Thank you.

Mayor Leffingwell: Next speaker is leslie king. Leslie king. With no subject.

Hello everyone. My name is leslie king. king who was here earlier. I am an austin water utility ratepayer as well as a third generation austinite and I'm here today to request that the city council stop construction of water treatment plant number 4. And immediately take action to protect the natural environment which austin so greatly depends on. Aside from the cost of actually stopping the plant construction, it has been cited around 150 jobs would be lost in the process. 150 Jobs specific to the construction sector does not pose much of a threat to our local economy. However, the construction of the plant does due to enormous cost and estimated 66% increase in water rates. Such an increase in the cost of living without an associated increase in individual economic gains will do nothing but make our situation harder. It will make finances more scarce and a difficult time that was initially caused by overconstruction and defaulted dividends. It is clear that financial concerns are the forefront of everyone's mind particularly surrounding this debate. However, the construction of the water treatment plant is not worse the costs the city will incur nor is it even in demand. Using the done instruction money can be better automaker used to create hundreds of jobs. This posts a much more lucrative opportunity for austin because of the business it can create putting out of work teachers back into the classroom and attracting outside investors. Furthermore projects such as retrofitting which take 3 to 15 years to complete can make a sustained p impact on our economy. 10 Pents per bag can create funding for various conservation programs. The natural environment is one of austin's main attractions and biggest money maker. If we didn't have people from all over the world coming to see bats emerge from the congress bridge, little paddle or hike a good part of austin's economy would fail. Not doing more to protect the natural life is doing a disservice to the economy austin has created. If we do not take actions

to improve our resources our quality of life is sure to diminish. Let me note that the city has run successful conservation programs but even with some successes more needs to be done. Let me conclude with this. Whether the plant construction is halted or continues a cultural shift will occur and cause a greater culture shift in the world. Unlike Las Vegas what happens in Austin does not stay in Austin. What happens here will affect everyone in the world. Whether it is through a water pipe or a connecting water pipe. Austin is seen as a progressive city that sets an example and I urge the city not to act from short term monetary pressure -- [buzzer sounding] -- but to the understanding others look to the city for guidance.

Mayor Leffingwell: Thank you. Your time has expired. [Applause] Gus Pena. Gus, you have seven different subjects here and I would just refer the council to that list rather than read all the subjects.

You don't have to read it, Mayor. Thank you very much for trying. They are very important topics. Gus Pena, Native East Marine Corps veterans and to my right is my son. Hopefully if he wants he will take over when the good lord picks me up. Continue to fully fund summer jobs programs for youth. Do not postpone, do not delay the next academy class. We need officers on the streets. I understand about all the funding and how it impacts the general fund, how it impacts the economy, but let me tell you something, folks, we have got grievous problems. Some of the officers don't know the way we do in the community. We need more officers in the streets. We need more -- you the city need to find more funding for Ozark Services agencies. We're seeing a lot more people becoming homeless, good people, rents, occupancy soar. One of the things -- and I like Walter Morea and his nonprofit but issues when they re-happen the old Lodge Motel it's going to SRO, single room occupancy, nothing for families. We have a lot more families becoming homeless. Veterans with families, Mayor, you have a Navy veteran and families with kids where are they going to go. This is not an affordable city. I ran for city council? 1996 and '97 and what has changed it's becoming less customer friendly. Please continue to collaborate as the Austin Independent School District to prevent truancy and drop in and out programs and volunteer to mentor students. Safety, freedom and democracy. Moore and Council at Risk you'll and also Gonzalez at South River City because these are initiatives that prevent, once a prevent mechanism is compromised you have to intervene. You have to capture our kids' hearts and minds. We're losing an entire, you know, generation of kids. Can't afford to let that happen, folks. I don't know about you and I know you all love kids, but we can't afford to lose our kids to a negative entity. I'm here to tell you I don't care -- I'm not afraid of anybody. I've been in law enforcement too. I ran for justice of the peace with the cops, sheriff, associations, nothing scares me except not going to heaven. This is my future, your future, Lucio, and I love him, I love the kids. We have to fund the social service agencies that support our kids, our housing issues and needs and dropout prevention and housing initiatives that curb and curtail homelessness. We have a problem here, Mayor and Councilmembers. Mayor, Councilmember Martinez, I understand there's funding. In the general fund, warm and muggy use that funding, find a way to transfer the funding. [Buzzer sounding] Thank you, Mayor and Councilmembers. [Applause]

Mayor Leffingwell: Mona Gonzalez. Topic is support for children and families in Dove Springs.

Good afternoon. I'd like to ask everyone who is here in support of River City Foundation to join me up here please. I'm here as the former co-chair of task force on drugs but also as founding executive director of River City Youth Foundation that for 27 years has defied the status quo you are new funding. I'm here joined by a former city councilmember, pastors, most importantly the children. We're here to put the faces of the future to the funding dilemma of today. Why River City Youth and why Dove Springs? We serve the poorest of the poor in Dove Springs. What do we mean by that? We're the only organization in Austin rooted in Dove Springs fully committed to promoting its well-being. It's the single largest and fastest growing area of Austin, booming Latino population. Highest rate of childhood obesity, 20% of Austin's kids students, two out of three children living in poverty, and that's why it's so important for you to fund. Stop a geographic dispersion issue and unintended consequence of a noble funding process. Fund best practices that consistently inspire youth toward academic excellence, that leads to a lifetime of success. Do not compare us to Northeast Austin. Do not compare us to East Austin. They have many, many more municipal resources than Dove Springs. You know that as decision makers. Don't cut. Increase resources to Dove Springs. We have some maps and they are right here behind me that show the before

and after impact of the recommendations. Why leverage us to grow capacity? We have a debt free donated million dollar youth and family parkland facility in the heart of dove springs. We have ought it in kind over \$560,000 annually in donated volunteer time. Materials, equipment and resources. But what we need your help on is personnel and operations. That's where your cuts are going to impact us. We need licensed counselors to guide the hands of the volunteers. Like the 400-year-old live oak tree under which the children enjoy meals six days a week, we are deeply rooted. When the schools are closed, the rec centers are closed, the library is closed, we are open. Who can you tell me has been in dove springs focused and fired up about making life better for the children over 25 years? You probably didn't know this. [Buzzer sounding] but we do host some of your largest funded agencies there and share our resources. Thank you for helping the future of dove springs.

Mayor Leffingwell: Thank you, mona. And thanks, kids. [Applause] thank all of you for coming down. Councilmember morrison.

Morrison: gonzalez, i wonder if you could just real briefly explain those two maps. Is that a before and after?

The map over here shows dove springs as a underresourced area. There are little green dots, just a few of them, and we're one of the green dots. The map over here is the impact of the recommendations. It becomes blank. And we're not a green dot in there anymore.

Morrison: Can you just point to the dove springs area on the second map there? The blank area? Okay. Thank you.

Thank you all for your hard work. God bless you.

Mayor Leffingwell: Thank you. God bless you. [Applause] without objection, the city council will go into closed session to take up three items 074 of the government code. City council will consult with legal council regarding the following three items, 91, discuss legal issues related to the open meetings act, 94, discuss legal issues relating to emergency responders for , versus kerr et al. Item 95, discuss legal issues represent to go nathaniel sanders, senior versus quintanilla and smith and the city of austin. Is there any objection to going into executive session on the items announced? Hearing none, the council will now go into executive session. I would not anticipate that we would be back before 2:30. Probably later than that. [Rumbling] Announcer: What if a disaster strikes without warning? What if life as you know it has completely turned on its head? What if everything familiar becomes anything but? Before a disaster turns your family's world upside down, it's up to you to be ready. Get a kit. make a plan. be informed today. Test test test test test test ros min ridge lee we're out of closed session. In closed session we took up and discussed legal items related to 91 and 95, and we'll be going back into closed session very shortly to take up item 91. In the meantime, are we ready for presentation from law on item 18?

Thank you, mayor. This is an item from the law department. It requests approval from council of a settlement involving personal injury arising out of a motor vehicle accident that occurred in october of 2006. The proposed settlement amount is \$32,500. The event involved a solid waste service driver who rear-ended a large tanker vehicle. The solid waste services driver was killed on the scene. There was substantial damage to the tanker truck. We have paid the damage to the tanker truck, but there is personal injury for the driver of the vehicle. He was off work for about a year and has an impairment rating. We have achieved mediated settlement amount of \$32,500 for full and final settlement. thank you. There are no speakers signed up. Any questions for staff? Entertain a motion on item 18. Council member spelman moves approval, second by mayor tem cole. Discussion? In favor all say aye. Opposed say no. Passes on a vote of 7-0.

Thank you. are the presenters here for the morning briefing? Okay. We'll go ahead and finish -- we'll take that up without objection, council, and after discussion on this we'll plan on going back into

executive session. And I think we're at the point where council member riley was poised to ask a question.

Riley: yeah. Thanks, mayor. Jim and jim, I wanted to join my colleagues in extending my thanks to you and all the other staff who have worked so hard on this for so long. It has been pending for some time and there have been a number of phases in the evolution of the project, and I just wanted to make sure we're all on the same page, especially with regard to certain issues that have been of particular interest to community stakeholders. First with respect to the warehouse district, there's been a lot of interest in the recommendations that are aimed at preserving historic character of that area, and as I understand it, the recommendations contemplate a 45-foot height limit and then provisions for the transfer of development rights. Can you elaborate on that and clarify whether that's still the staff recommendation?

Yes, that policy has not changed. 45 Feet within the core block defined by lavaca, colorado and the alley on either side of 4th street. and one suggestion that came up in the course of those conversations was that we consider whether a local historic district might be able to serve the same purposes in a way that's a little less restrictive. Did staff consider that?

That has -- that was discussed. It was not felt that it -- and certainly pursuing a local historic district is something that we've all -- we've said in the plan should be done. It would not have the same effect of preserving -- necessarily preserving the core -- the whole district, but that is certainly an option that could be pursued. a number of questions were raised about the viability of the transfer of development rights. To what extent have we seen that mechanism pursued successfully here in austin? In the past.

I don't know that we -- I'm unaware -- I stand willing to be corrected, though -- of a similar transfer of development rights program here in austin. Obviously it's a type of program that has been used to success in other parts of the country, not only for historic preservation, community interest, but obviously for environmental purposes as well. I think, you know, one of the aspects of what we've proposed for a tdr program with regard to the warehouse district is just the -- the fact that you essentially have a sending zone and a receiving zone. The sending zone being the place where the rights originate or emanate from, which in this case is one block. The receiving zone that we've recommended is the entirety of downtown, which I believe is approximately 4 to 500 blocks. So that would suggest -- I'm not saying it conclusively determines -- but that would suggest that given that it's one of the options available through the density bonus program as a way of achieving additional density, the -- that there might well be a good market for development rights emanating from this one -- one block sending zone. and does that mean that a site in the receiving zone could achieve additional entitlements without providing other benefits?

No, at least under our proposed program, projects participating in the density bonus program residential projects need to achieve at least 50% of their additional height and/or density via affordable housing options. The other menu items, such as providing space for cultural facilities, transfer of development rights, sustainability, green building options, can make up to 50%, but the first -- but at least 50% of the additional density has to be achieved through the affordable housing option. and that's for residential projects?

Yes. and what about nonresidential projects? Could a nonresidential project achieve all of its additional autonomous -- simply by receiving the warehouse rights -- the rights from the warehouse district?

I believe it could, unless -- jim, you look --

I think the way we've structured it is that office and residential -- office and hotel or nonresidential projects get a 50% -- automatically 50% bonus from the existing far. After that 50%, so if you're going, say, from 8 to 12, they would then be obligated to go through the same density bonus program that a residential project would do. So they could contribute to affordable housing, but they could also go through the -- they could also have the option of pursuing the transfer of development rights for historic

preservation.

Riley: okay.

One of the concerns we had about the transfer development rights program was whether it would be marketable, and that, as jim said, is why we concentrated at the sending zones, because there are ideas about other areas that could also transfer development rights, say for lots that were under the capitol view areas, but our feeling was in looking at the economics of it that we needed to concentrate it to that one block if it was going to be effective. And then over the years we may decide or it may show that we could expand that sending area to other portions of the downtown. and some concerns have been raised about that on the basis that this is one of the -- this is one of those areas in downtown where you actually don't have a capital view corridor limiting your height, so to impose a 45-foot height limit in your central business district is a little severe, and, you know, some folks have raised a question about whether that would be considered a taking. Have we looked at other cities to see whether it's similar -- similar restrictions have been put into place and elicited legal challenge?

Yes, I think I brought jim who has more of a background in law --

I don't want to venture into trying to render legal opinions but we have talked to the law department about the viability and legality of this program and the advice we've gotten is that we seem to be on a solid footing.

And I think there's a precedent for it right here in austin if you look at the sixth street corridor, a 45-foot height limit was placed on the sixth street corridor as a means of preserving that area, and that has been very effective over the last 30 years doing that. And this is a similar effort.

Riley: okay. Another recommendation that's generating a lot of interest is the proposal about setbacks over -- at the 90-foot level, and could you elaborate on that recommendation?

Yeah, and we've -- in adopting the downtown plan you would not be adopting that particular stepback or any of the other rules that we'll go through, more of a due diligence process to review that. We did feel it was important in terms of one of the urban design criteria of establishing a portion of the building having a street wall at 90 feet, so that not all buildings could sheer down directly at the property line. We have proposed a certain percentage of the building be stepped back. We've recognized in the latest draft that there could be hardships on certain properties, particularly those that are under capitol views and have provided an escape clause for that, for those properties, on that rule. But again, this is a rule that we'll have the opportunity of going through additional study and more stakeholder input once the plan is adopted, but it's -- it's one that we think is important in guiding the form of the downtown. what is the currently recommended stepback? At 90 feet?

I don't think we've specified a particular amount. That would be something we would develop as we move forward with the code amendments.

There were different numbers during the study, but I think at the last version of the plan took the numbers off -- I know there's been a lot of interest in that subject, especially with the guard projects on congress avenue. We keep running into that. And every project on congress avenue winds up seeking some adjustment of the setbacks required.

And we have a policy specific to congress avenue here about relaxing some of the stepback requirements that are no longer effective because buildings that are already in the way of those stepbacks. So that is a policy that is recommended. Again, it will go through a review process once the plan is adopted. what about the recommendations for the market district, that is, in the southwest part of downtown? Early on in the process there were some concerns raised that we had -- that some height

limits in the market district seemed out of line with past projects. Can you speak generally to what sort of height restrictions we see in --

I think that those issues were I think resolved as part of this process. I'm not aware of any outstanding issues. There were a number of specific questions that were raised about inconsistencies, but I believe we straightened it out -- it's more coherent --

I believe so. I'm not aware of any issues to the contrary.

Riley: okay. And generally with respect to all of these different issues about the -- that relate to the forms of the buildings that would be allowed downtown, the central Texas chapter of the congress new urbanism has raised questions about the general approach we're taking, and in particular they've asked that at the time of implementation of the proposed form-based elements of the plan, that we consider whether a comprehensive form-based code for downtown Austin is more appropriate than patchwork amendments to the existing land development code applicable to downtown. Could you share any thoughts on that?

Well, our thought was, first of all, in terms of the ability to get some meaningful guidance on the books that -- that -- a way of sort of -- I guess a more surgical approach like we're proposing -- where we are proposing certain form-based standards, but they would not be a wholesale rewrite of the code downtown. Might be a way to at least get our land development code in line with our community's vision for downtown in a reasonably timely manner. I'm not going to stand here and say I think it would be a mistake to do a wholesale. That strikes me as a longer range project than trying to go in and rather specifically accomplish what we see as the highest priority form-based elements of a regulatory realm.

And I think that the comprehensive plan is coming up with some policies for a form-based code citywide and that might be a time to revisit it at that time. I also wanted to ask about a concern raised by the downtown Austin neighborhood association with respect to some infrastructure requirements that we'll see downtown. In particular, they pointed out the plan calls for a new fire station, multi-modal transit facilities and electrical substations, without specifying what sites are being reviewed and the elements of consideration, and they've asked whether it might be appropriate to provide more detail about proposed locations for those sorts of facilities. Have you-all considered that?

We -- I -- we did not regard it as sort of within the purview of the downtown Austin plan to go so far as to tell the fire department where a new downtown fire station should be. We have talked to the downtown -- we've talked to the fire department. We -- as in clear in the plan, we have made a recommendation that we think it would be a good idea to look at an alternative location as compared to the current location for the station at Brush Square. And the fire department said that -- their feedback was that they're not inherently opposed to that but there's a complicated matrix of response times and routing of vehicles and so forth that needs to be evaluated to figure out where an alternative location would be. But we didn't take it upon ourselves to go through that whole process with them and pick out a spot.

And on the substation, that was kind of a heads-up from Austin Energy that in the long -- in the fairly far, distant future there will be a need for a new substation somewhere in the northwest portion of the downtown and beyond issues sort of the West Campus area, and so they wanted to make sure that that was at least identified in the downtown plan. The actual siting of that is a process, like the fire station that will need a considerable amount of community input and was considered to be beyond the purview of what we could accomplish in the downtown plan.

Riley: okay. Lastly I wanted to touch on parking, just because we are going to be considering parking shortly, and the plan does include some discussion about parking downtown. It points out that as downtown real estate becomes more expensive and site smaller, less front side parking, there's a need to manage the parking supply more effectively, it suggests that the city should engage its new parking enterprise to take a more proactive role in coordinating supply of downtown public parking, shared

management responsibility, coordinated pricing and so on, that we should establish -- that we should manage on street parking and loading areas in a more efficient manner and that we should -- that in coordination with the comprehensive wayfinding system, signage and realtime parking display should be established along key corridors leading into downtown to inform motorists of the parking. Is that a fair summary of the main proposals with respect to parking as it relates to the sorts of issues that we're going to be talking about this afternoon?

I think those are the main proposals. If I could back out a little -- just a little bit, you know, go to a little higher elevation, the underlying rationale there being that as the downtown plan, I think, demonstrates, we have a substantial amount of remaining development capacity downtown, and it's a clear city policy to try to accommodate a lot of growth in our downtown if we can. And in order to do that we're going to have to very carefully manage all of our mobility assets, one of which is automobiles. You know, we also talked about transit, bicycle, pedestrian and so forth, but the idea there is that if we can manage our parking assets, those that we have and those that will be created, more effectively, we can perhaps free up more of that remaining development capacity more efficiently than under the current model where each project builds its own parking and perhaps as much as one-third or one-half of the total square footage of each project is devoted to parking cars. and in particular there is one proposal to establish an in lieu fee system that allows developers to contribute to centralized off-site parking as an alternative to providing parking on-site. Is that --

right. is that the type of proposal that you're --

yes.

That's a very important proposal for a downtown that is trying to concentrate density, so that we don't spend half of the volume of the building in parking for that particular use. We allow the parking to be distributed and shared in a more efficient manner. did you-all look at our current requirements for parking and consider whether there should be any adjustments to those beyond just the possibility of providing --

the parking standards are fairly liberal here. You know, you do not require a significant amount of on-site parking, but what is happening that because of the lack of transit, the lack of other mobility choices, the developers are building many more parking spaces than what you actually require as the minimum on the property. So I think until we have a more robust transit system and until there is a more proactive approach to parking, you know, we're going to continue to see that trend, I think.

Riley: okay. All right. Well, thanks again for all your work on this.

Thank you.

Mayor leffingwell: okay. Thanks very much.

Thank you. Council I, we need to go back into executive session, but before we do, most of the items on the zoning agenda are on consent. We could read through those and release potentially a lot of folks on a number of cases. , If there's no objection to that.

Thank you mayor and council, greg guernsey, the planning and development department. 00 agenda for zoning neighborhood plan amendments, these are where the public hearings have not been closed there's possible action today. I understand, mayor, that we probably have two people here that probably signed up for item numbers 96.

Mayor leffingwell: okay. Well, we'll have to consider that after we come out of executive session --

very good. First item for consent is 97, case c14-2006, 0062 property at 8501 bluffstone cove. Staff is requesting a postponement of this item. Commission has postponed this item. Postponed to september 22 98 is case c14-2011-0051 for property located at 6104 south first street. To zone to general office go district zoning. The zoning and platting commission's recommendation was to grant general office, conditional overlay or go-co zoning for tracts 1 and 2, and we can offer this for consent approval on all three readings. 99 is case c14-2011-0058, for the property located at 705, 707, 709 and 711 west avenue and 710 west 7th street. ben proctor, who is an adjoining property owner, has asked for a postponement. We've been in contact with subtle, who's the agent for this case, and they're agreeable to a one week postponement of this item to your august 25 agenda. 100 is case c14-2011-0047. This is for the property located at 801 south lamar boulevard. We have an applicant request for postponement of this case to your october 20 agenda. 101 is case c14-2011-0064 for the property located at 800 to 814 patent avenue. This is to rezone the property to public or p district zoning. The zoning and platting commission's recommendation was to grant the p district zoning. This is ready for consent approval on all three readings. 102 is case c14-2011-0111 fee for the property located at 10301 old san antonio road. This is to zone the property to multifamily residence, low density, conditional overlay, mf-2 combined zoning to condition the condition to zoning. commission recommendation was to grant the mf-2-co and this is ready for consent approval on all three readings. 103 is case c14-2011-0038 for the property located at 8800 sky mountain drive. This is to zone the property to multifamily residence, limited density, neighborhood plan or mf-1-np, combining district zoning. The planning commission recommendation was to grant multifamily residence, conditional overlay neighborhood plan or mf-1 co-np combining district zoning. This is ready for consent and approval on all three readings, 104 is c14-2011-0023 for the property at 1604 cedar bend drive. This is a postponement request by staff to your september 22 agenda, and 105, this is case c14h-2010-0032 for the property located at 800 edgecliff terrace. This is to zone the property to family residence historic landmark neighborhood plan or sf-3-h-np combining district zoning. The planning commission recommendation was to grant the sf-3-h-np zoning and this is ready for consent and approval on all three readings.

Mayor leffingwell: okay. So the consent agenda for today is to postpone item 97 until september 22, to close the public hearing and approve on all three readings item 98, postpone 99 until august 25, postpone item 100 until october 20, and close the public hearing and approve on all three readings items 102, 103, 10 -- 101, 2 and 3 and to postpone item 104 until september 22, and to close the public hearing and approve on all three readings item 105. Council member tovo. guernsey, with regard to 99, has anybody been in touch with proctor to see whether he's going to be back by next week and whether that's a sufficient amount of time?

I'm not aware that he specified a date in the letter that I think you have on the dais. I don't know if we talked directly to -- I'm looking for staff, but we did get the letter this week but he didn't specify a specific date in his letter. I know that if the council is considering a date beyond that date, the applicant's subtle, would like you to probably table this item and allow him time to come here to discuss it, proctor and, I understand, subtle, neither one of them are here because they had agreed -- they agreed to a postponement, but -- we could postpone until august 25, and if there's a problem on that date we can revisit.

Tovo: sure. All right. Thanks. so motion to approve the consent agenda? Council member spelman. Second?

Second. council member morrison. Discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 6-0 with mayor pro tem cole off the dais. thank you, mayor and council. without objection the city council will now go into closed session to take up one item 074 of the government code, city council will consult with legal council regarding the following item, item 91, discuss legal issues relating to the open meetings act. Is there any objection to

go in on the item announced? Hearing none --

Spelman: mayor? A question first.

Mayor Leffingwell: yeah. we have nine people signed up to discuss 75, and they're i think quite properly wondering when we're going to come back to it to take that and the other items on our agenda up. I'll be glad to answer that. Let me finish with this script here.

Spelman: go right ahead. is there any objection to going into executive session on the items announced? Hearing none the council will go into executive session for approximately one hour.

Spelman: okay. So we can reasonably expect we will be back at 3:30. The first item we'll take up 00 time certain on downtown parking? not necessarily. But we can -- not only requirement is that it be after 3:00 p.m.

Spelman: okay. Thank you.

Mayor Leffingwell: We have out of closed session. In closed session we took up and discussed legal issues related to item 91. So council, I have a question from councilmember martinez to take up item 74. Is there any objection to us going to item 74, which is the parking meter item? Okay. So then we'll go to item 74. And we have several folks signed up to speak. Jen studebaker, she signed up for. Joan barks has signed up for. Joan barks is here? Well, come on down if you're here. This is your opportunity to speak for three minutes.

I'm here as a mary cathedral. Previously I've given you all the reason for why you should not put the parking meters in front of the cathedral like you're proposing. I want to say right off this time, I think every church within these boundaries should have an exemption. We're in the business of working 24/7. Grant you, it doesn't put any money in anybody's pocket. It is not a business enterprise. We do provide a service, but we're not in the money making business. And for us, for the churches in downtown austin to have to put up with this proposal is just unconscionable. I am speaking in favor of the proposal. The proposal it to move the northern boundary from 10th street to eighth street. And I am in support of that. Like I said, there are some churches that even that would not absolutely help. And if I may so dare, if indeed councilmember martinez's proposal is not approved, I would request that 10th street from brazos to san jacinto -- because that whole block is where the cathedral does its business, that that section be given a permanent exemption to the extended meter parking regulations. That's the best that i suppose you could do, if indeed you're not going to drop it down to eighth street or whatever. I believe that there is another item coming up in relation to this, but that is at a different time, so I will wait until that item is called and then I will speak to that issue, if that is okay. All right? Basically that's it for now. I appreciate it. Thank you.

Mayor Leffingwell: So you're concerned about 10th street and exempting that from extended meter.

On the week nights and on saturdays because that's where -- that is when -- we're in business 24/7. We never stop. But the weekends are extraordinarily busy, as I showed you the last time I was here with all of the data that I gave you. So it's something for you to consider. If it won't break the bank, I think it would be a really good idea.

Mayor Leffingwell: Well, it won't break the bank, I would just be concerned because that would mean anybody could park there.

Thool, ws thiew -- well, that's true. We realize that. But at least if you do not have parking on that stretch, you just say okay, there's not going to be any meter. You don't have to pay to park on that

stretch nrks that block.

Mayor Leffingwell: Right, I understand.

That would be great. So whatever.

Mayor Leffingwell: And I believe -- my understanding is what's on the table right now excludes ninth and 10th. Is that correct? City attorney?

If that gets to be approved, then you don't need to pay any attention to what I just said.

Mayor Leffingwell: All right.

I'm just covering my bets.

Mayor Leffingwell: You're giving us your fall back position.

Yes. Thank you.

Riley: Mayor?

Mayor Leffingwell: Councilmember riley.

Riley: Could I ask a question, ms. barts? So you're suggest sugging that even if we extend parking meters in that north area that we exempt that one area and not charge for parking on that block.

On saturdays all hours and on week nights.

Riley: So if it becomes generally known that you pay for parking everywhere else, but there's free parking there, just supposed hypothetically that people -- that word gets out that there's free parking at that one block, and so people from any -- who want to come to anywhere in the area who don't want to pay for parking, suddenly they're descending on that one block to park.

We think about that.

Riley: And have you given that some thought?

Right.

Riley: What do you picture the church goers doing in that situation?

We're going to pray like crazy. [Laughter] most of what you're anticipating getting revenue from are in the evenings with most of the bands and the hotels and so forth. A lot of that will not affect -- won't cause people to park in that block because that's during the day hours on saturday, that's the baptisms and the retreats, maybe a wedding. Maybe a wedding at night would be affected, but like I said, we're just going to pray and see how it works out.

Riley: I notice there is a large parking garage on that same block just south of the cathedral.

That's not owned by us, it's owned by the bank. We do have access to some of the slots in there, but it's very inconvenient. We have a lot of elderly people that have a little trouble with their movements. With

their movements, whether it's walking or anything else.

Riley: There's an adjacent building on the same block?

It's the -- behind it, yes. Yes, we can use that; however, it's not -- we've had problems with getting in and out of the garage on the weekends because people are supposed to be there to make it accessible aren't there.

Riley: Because of the way the garage has been managed?

Right. And mainly it's because we have so many of our elderly people who attend. And the reason they come on that street, on 10th street, is because it's all level walking. There's no having to go in an elevator and go up and downstairs or anything like that, which do you with the garage. So anyway, we're going to give it a shot and see what we can do, depending on what you all do. And like I say, we're in the prayer business, so that's what we're going to do.

Riley: Okay. Thanks.

Mayor Leffingwell: Okay. Ron cartilage. He signed up for. And you have three minutes.

I'm ron cartilage and I have lived in austin since 1951. I have a home that is about three minutes from this building in sawn. South austin. I worship downtown. And I perform sometimes on sixth street. I served on the environmental board for three years. I was on parks board and a vice-president on parks board for almost nine years. So I think you can tell that I love austin. But I'm concerned about the parking in the downtown area. I'd like before I start, I'd like to praise mike martinez. I really appreciate you trying to break this log jam, and coming up with something that maybe everybody can be happy with. My petition, which i have got up, actually takes laura morrison's perspective of ninth -- of seventh street north. And -- but I would be in favor of your idea too except that there are two churches, one on seventh street and one on eighth street, plus a masonic lodge that would not be covered by that. So if you could exempt eighth street north, then I would be for that petition. I want to thank two councilmembers, kathy tovo and laura morrison, for having the tendency to keep this fight going. And I thank you for that. I wouldn't be here if it wasn't for you two. My petition -- I've been working on it for only a week and a half. I've asked 118 people to sign it, and 111 people signed it. I'll tell you that there are two people from elgin or one from westlake that signed it, but the rest of them are austin voters. I've had people tell me that they don't sign petitions, but they'll sign this one, so they've signed it. There are a lot of people -- that's 93 percent of the people who have signed that petition. All of the pastors in the downtown area have signed that petition. I've visited every church. Every pastor, every minister, every rector, every priest, only one who asked their administrative assistant to sign it. There's a former president of the school board on there. Incidentally, mayor, there are two former mayors of the city of austin that have signed that petition too. So it's not just about churches, it's about neighborhood and pitching people out into the neighborhood, and it's about business. So I hope that you will pass this issue. [Buzzer sounds] fff thank you.

Mayor Leffingwell: Thank you. Jen studebaker again? Jen studebaker, is she here? The next speaker. Thank you, ron. So you have three minutes.

I am jen studebaker. This is lottie. I didn't have a sitter today. I wanted to come and put my support behind the new amendments to the parking meters that martinez had come up with and thank laura morrison and councilmember tovo for all of their help on this. And I think that we have -- I've discussed martinez and -- councilmember martinez and councilmember morrison about all of the issues that we've had, and i really feel like this is a really good compromise. And I just wanted to throw my support and not be against something for once. And so thank you guys, and hopefully we can keep up the fight.

Mayor Leffingwell: Thank you. Mary crenek. Mary is for, but she is not here. Mary? Oh, okay. You've got three minutes.

Thank you. I've traveled this country for years just to come back to austin. Please stop trying to change all the reasons i came home. Jodi (indiscernible). My name is mary crenek, I'm a native austinite, homeowner, mother, business owner. I'm also a member of amp, austinites against metered parking extension downtown. I've enjoyed working with ampt founded about five months ago. And about the last five months we've grown to over 1400 and continue growing. I've greatly enjoyed meeting, educating and working with folks in the historic and new downtown night life community. We've also spoken with many enthusiastic austinites and music lovers. Many including tourists. They most all are consistently passionate, opinioned and responsive to parkin meter concerns. Surprisingly as well, as parking meter, unaffordability fees, they are concerned about many issues affecting the quote, unquote, live music capitol of the world. Downtown music scene issues such as taxis, excessive and unused parking meter zones, valets taking up street parking. Valets 250-dollar street parking per spot per year. Musicians being treated disrespectfully by austin police while they are unloading, especially in alleys. Safety of the women workers who work late and will be forced into unsafe parking areas such as the harassment given to some minorities even here at this very city hall around a year ago. Parking lot fluctuating and high prices during festivals and at whim. Again, double taxation. Gentrification. And can doughs being built subpar code with compatibility soundproofing windows that were mandated. Also ignoring and biasing the public survey. Keeping private a stakeholders group from citizens' involvement. Concern about the one million dollars of the income generated from the length thing of the parking meters will come from the fines only. As expected and estimated. Public des pond ent si at the motive of council as some of the lighter wording were crooks, greedy and cold. And lastly, I say double taxation. If particularly confuses me that the city cries for funds and salaries have been increased and property taxes from the condos are also forced on all of city of austin condo owners. What would the exact amount be of the new property taxes from these condos? I'm working with the founder, travis naffly, who is on his way now from work, lost in traffic, to make ampt an institution that will focus on urban politics in austin, thus continuing our primarily and newly developed concerns with parking meter taxation as well as any other policy community and political issues that should and will arise from here out. [Buzzer sounds] tovo, morrison by writing the delay --

Mayor Leffingwell: That was your time, that buzzer. Thank you. Just pass it down. Those are all the speakers that we have signed up wishing to speak. Okay. Ronnie reeferseed signed up against.

Thank you. I'm ronnie reeferseed, and I'm against more schemes by y'all to thoughtlessly steal from citizens just to balance your books, so as to, for example, pay for fluoridated toxic sludge with which you continually choose to mass medicaid all of us -- medicate all of us against the research wishes of countless informed citizens, many of whom you've heard from each and every week and no more money for your poison pushing sociopaths. That's what you all are proving yourselves to be. We give you the information, it's poison, we don't want to be poisoned. We're tired of poisoning our pets --

Mayor Leffingwell: reeferseed, this topic is on parking meters.

I'm just explaining why I'm against giving y'all more money. You don't know what to do with it. You choose to poisonous with it. You don't deserve any more of our money.

Mayor Leffingwell: All right. Thank you. These are all the speakers that we have. Councilmember martinez?

Martinez: Thanks, mayor. I'll be extremely brief. I think unfortunately not everyone is going to be happy with what we do here today. But I think what we've come up with is at least a compromise that moves us forward and in a direction where staff is recommending that we implement extended meter hours for valid reasons. There are some fears and concerns, and I'm not sure that they're valid, but we have heard them enough to the point to where I'm attempting to address some of those concerns in the

amendment as proposed. I realize that it is going to impact the revenue stream to go to great streets projects and downtown traffic improvement projects. But those are projects that aren't on the books today and so as time goes by I certainly want to revisit this. In fact, the item does require it to come back to council in march of 2012 to explain to us whether or not it's working as intended, whether or not it needs amending or tweaking. And also to try to determine the economic impact that it might have regarding some of the concerns we heard from venue owners and operators and workers and musicians. And so it's not perfect. I'll be the first to admit it. But I do appreciate my fellow councilmembers, more and tovo and the mayor co-sponsoring this and others who have worked on this issue. I think it's just trying to move this in the right direction. I don't believe that delaying implementation altogether is the right choice, but I believe don't believe that moving forward completely with extending metered hours downtown is the right choice either. So hopefully we'll adopt this promise and take a look at it next spring and see if we need to make some amendments to that. So with that I'll move approval, mayor.

Mayor Leffingwell: Councilmember martinez moves approval. Seconded by councilmember morrison. Could I offer a friendly amendment, councilmember martinez? It would be that instead of bringing it back in march, we accelerate that a little bit and bring it back in january for an evaluation? Because march is - i think we'll have four months under our belt dealing with the budget and what the impact really will be by that time. Do you object to that?

Martinez: I don't object. We can bring it back next week if you want.

Mayor Leffingwell: Well, I don't think we'll have much data by next week.

Martinez: I do want to ask a question of staff because that brings up an interesting point f we bring it back in january, one, have we established a baseline to determine economic impact and two, what is that. And three, is that enough time to have a good decent assessment?

Thank you, councilmember. Robert spillar, director of transportation. I think your original proposal had been january and we recommended moving it to march to give us a full six months. We were concerned about true enforcement occurring in starting really in october and then with the thanksgiving and the christmas holidays and new year's that we would have limited data of actually having the operations. That's the only concern. We'll back what we have. In terms of setting a baseline we will be looking historically, so setting the baseline is not the challenge. So we will do whatever you would like us to do.

Mayor Leffingwell: Well, is it your opinion that you would have a better idea of what's going on with -- as a result of this change in march than you would in january?

Yes, sir, it is.

Mayor Leffingwell: All right. With that testimony, I'll withdraw my friendly amendment. Councilmember morrison.

Morrison: I would just like to thank councilmember martinez for staying open and continuing to search for some kind of middle ground there. And I also just want to particularly acknowledge the folks with ampt, who I think a lot of them is the first foray into the world of trying to make a difference at city hall. And so starting from nothing to really try and keep something alive was helpful to me in terms of doing my job. And I t y'all for that and I know we'll see you around.

Mayor Leffingwell: Councilmember spelman.

Spelman: Could i spillar a question or two, if i could?

Yes, sir.

Spelman: We had a question for you on i think tuesday in the work session as to what would be the economic impact, the fiscal impact of this ordinance. And you were -- did not have complete information, but you said you would have more complete information in a couple of days. Do you have it now?

I have some preliminary numbers, yes, that I think we can show you here. A couple of quick graphs.

Spelman: Thank you.

Here we go. Pardon my shorthand for the various alternatives. I told you I'd bring you back a grid of the four options. When we put that grid together we figured that a bar chart would look better. Everything here is compared back to the 2012 budget, which is our current direction from staff pending today's direction or direction from council. This is only the revenue and the expenses from the extended hours. And so you will see we're looking at numbers just shy of three million for the 2012 budget as it is now. The current proposal that's on the table is the one to the far right and you will see that it will reduce our revenues by 1.7 million. That is the revenue from the parking meters themselves that goes into the parking management fund. And so that is what we would not only pay the expenses of the extended hours, but also start to make the investments in transit initiatives -- transportation initiatives as well as downtown initiatives. So this gives you a feel for the four options that are on the table as we try to respond to you. And then if we go to the other part of this revenue picture, which is the citation revenue to the general fund from the extended hours, you will see that there's about a 480,000-dollar impact based on the reduced revenue from tickets due to the meters or the extended meters. I know there was some discussion about previously about what about the other type tickets that you give. One of the things we would like to do as we move through the budget process is to reduce our costs of enforcement we need to think about either going to a part time regime for those employees or repurposing them. Repurposing them means we would use the same officers to enforce other violations that are non-meter violations, state violations, but remember I don't know that I had the revenue to support those officers for that other half. So we would need to balance the balance of the other tickets that they would be giving against their revenue and figure out how to do that. That's part of the budget process. I did not have time to evaluate the net difference.

Spelman: So we should be looking at the difference between the far left side, which is the -- if we did not do this ordinance, what you were assuming for the 2012 budget. Or the right-hand side is the issue before us now.

Yes, sir. And the red number is the variance which you will see there is in millions, is about 480,000, there's a decimal point missing.

I was guessing it wasn't 485 million. So roughly this decision today would cut in half the parking meter citation revenue for a loss of almost a half a mil. And the previous slide -- that would be helpful. That would suggest that instead of just shy of three million, we would be losing 1.7. Add them up we're talking about a loss of \$2.2 million.

Yes, sir.

Spelman: Okay. With the remaining it 6 or so million dollars, will you have enough revenue to be able to support even on a part-time basis the enforcement team that you were talking about?

Yes. And again, our preference would be obviously not to cut those employees back to halftime, but to repurpose them for a different use. But that will be part of the discussion during the budget if you give us direction on this proposal today. So we'll move forward.

Spelman: Okay. You would find something else for them to do, but your in the sure what would be it.

Well, it would be enforcing non-meter violations, which we think there's plenty of those occurring out there in terms of parking in front of fire hydrants, parking zones. That's been our experience. And so we would seek that revenue to replace the revenue we lost, but I don't know the balance yet.

Spelman: Okay. So you just don't know how much stuff they would find.

I'm pretty confident that they would be able to pay for the revenue themselves. I don't know that we would be able to replace the general fund loss.

Spelman: I see what you're saying. Got it. I imagine you probably wouldn't be able to replace that half a million dollars, but you would be able to make up some of that.

I don't know the answer to it. I believe I would be able to replace their salary that I would defray from the meters enforcement.

Spelman: What other changes in the budget would be required if we pass this ordinance?

We would certainly cut back on the transportation investments and the downtown investments. We know that from discussions that the wayfinding project is important and we've already sort of made a commitment to move forward with that. So we would try to maintain that. We would cut back on downtown expanded maintenance. We were planning to expand the maintenance. We cut back on that. And we would also cut back on our investments in other transportation projects other than the wayfinding. So that would just be a business function that we would seek. Remember, we're being very cautious as we go through this first budget year because it's an unproven market until we understand it from a business perspective. So I would expect the next year coming back and being able to invest in those transportation and downtown initiatives.

Spelman: Given that we are scheduled to have a look at this policy again in march, you would then have had six months, regardless of whichever policy it is, to examine how it works. Is there a possibility of making budget adjustments at that point?

I would suspect that if council is willing, there's always the opportunity to come back and request a budget amendment at that point.

Spelman: So if we made a change in an ordinance that would require a budget change, that would be something which is at least on the table.

Yes, sir.

Spelman: That's what I need to know. Thanks.

Yes.

Mayor Leffingwell: Okay. Looking at the graph, the graphic you have on here now, it says thursday through saturday 10th street, thursday through saturday eighth street. And I thought I just got the answer to a question a minute ago that that meant north of eighth street. Eighth street was still subject to meters?

Yes. In this case eighth street is subject to the meters.

Mayor Leffingwell: How about 10th in that scenario?

Yes. One thing you need to know about 10th street is that 10th street, both sides of the 10th street and north of 10th street between trinity and lavaca streets actually are in the state system. So right now we don't control those meters on that section of 10th street. So in fact, in under any of these scenarios, the extended hours would not affect that core port of 10th street.

Mayor Leffingwell: So that somewhat mitigates any loss to the city? Or is that revenue still --

that revenue goes to the state. We do not collect or enforce that street.

Mayor Leffingwell: So we're not losing quite as much as it might look like.

That's correct. And again, I said pardon my shorthand on this. I tried to distinguish between the two ordinances without --

Mayor Leffingwell: Really the big difference between scenario three and scenario four is essentially ninth street.

Ninth and the two INTO 10th. What is unique there and the reason it has such an impact is because those are most of our angled parking spaces in downtown, and happened to be the ones that are typically more heavily used after hours, especially as you get to the eastern side.

Mayor Leffingwell: On ninth street?

Yes.

Mayor Leffingwell: And those are already metered during the daytime.

Yes. They're already metered during the day.

Mayor Leffingwell: It seems to me to be quite a bit of difference between three and four, a significant difference, both on the revenue side and the penalty side. I guess I could look at it and tell how much that is, but it looks like about a million three?

Well, no. The difference between the 10th street option and the eighth street option is about 500,000.

Mayor Leffingwell: 500,000 On which meter revenues?

The -- yes.

Mayor Leffingwell: How about the fines?

There's an additional 500,000-dollar variance by moving back to eighth street.

Mayor Leffingwell: To north of eighth street, which is really ninth street, right?

Losing ninth street, yes, sir.

Mayor Leffingwell: Councilmember morrison.

Morrison: Just a little point of clarification. Are your assumptions that -- did you just assume the 20% of the parking spaces would be lost going with the eighth street option? The reason I'm asking is because that's two out of 10, but we also have rainy street and those other issues.

Rainey street is not included in this calculation, is that correct?

Yes. Because there's no meters there yet.

Morrison: But there will be?

We are proposing in this next year to evaluate putting meters into the rainy street district per I think some direction that was given to us by council, yes.

Morrison: So there's no revenue from rainy street --

it does not affect any of these estimates, yes, ma'am.

Morrison: And as we discussed on tuesday, we're looking at changing the way things work with valet parking. And that would also go into this fund presumably if we change things around.

Yes. And as I revealed, we had always planned to do that sequentially because part of the concept behind a fee for use of space is how much revenue is being displaced. So we needed to know what the response here was before we move forward with that. We just started our first stakeholder meetings with regards to valet parking this past week.

Morrison: And i know I've heard from some valet parking --

I'm sure you have.

Morrison: I'm looking forward to working and talking with them. Okay. But my take away from this is that going with eighth street we're not going to be underwater. We're going to have less revenue from fines going into the general fund, although I like to remind everyone that that is money coming out of pockets of our citizens, paying for parking tickets. And we do have things on the horizon that look like they would help to beef up this.

Well, remember there are two funds that are affected here. There's the parking management fund, which is the parking meter revenue. Yes, with the proposal there is a 7-million-dollar variance from the current budget plan. We can absorb that. It does affect our plans and we will come back to you as part of the budget presentation to make sure you're aware of that. And then there's the general fund, which there's the 450,000-dollar reduction. And that's what it is.

Morrison: Thank you. And thank you for working on all these different scenarios.

Mayor Leffingwell: I think the concern is that money has to come from somewhere, somewhere else in the budget.

That's what i understand.

Mayor Leffingwell: It occurs to me there's always the unintended consequences of these things that you didn't think of. And come to light later. One possible unintended consequence would be if ninth, 10th and 11th are free, then the night life traffic is going to push northward and there could actually be less

parking available for wednesday night church and so forth.

Yes, sir, that is always a risk. And we'll be evaluating that closely.

Mayor Leffingwell: That's one thing i wanted to ask you to take a look at when you come back here. I think that very likely might happen, somebody can park free and they're going to be down on sixth street for four hours, that would certainly be a valid option. Councilmember riley and then tovo. And then spelman.

Riley: I'm glad you raised that point because I would like to shift the discussion away from the revenue piece back to where i think the conversation really started about extension of meter hours here and about the whole implementation of parking meters in the first place historically really was not about generating revenue. Historically it really has been about managing a scarce resource. And it relates back -- historically back to 1935 in oklahoma city, july 1935, just over 76 years ago, when they found they had no parking available. Nobody could park in the business district there because the business owners were coming down there and parking on the street and the shops were all paralyzed. There was nobody coming. They couldn't do business. It wasn't functioning. So a guy out there came up with this idea, this meter -- looks an awful lot like the meters still in use in many places today. Just to manage the parking space. And it went into effect. Of course there was all kinds of hue and cry about double taxation and complaints. But what they found is as soon as they installed those, suddenly people were able to park there for the first time and they were so wildly successful that the property values shot up. Businesses that didn't have them started clamoring for them and they spread like wildfire across the whole country because everybody recognized that they were necessary in order to manage this scarce resource. And still -- it is still always unpopular from charging in a place from somewhere that's always been free. That has been offset to some degree in place where's people have been able to redirect the revenues in the area where the revenues where people are paying for them. So you actually see improvements in the area. So for instance where you have an area where elderly people have a hard time getting around, you can actually have sidewalk improvements that actually promote accessibility and make it more convenient for people to get around on the sidewalks and be able to move around better thanks to the revenue that is generated through these parking meters. And the whole downtown functions more effectively and you have a more appealing and convenient downtown for everybody. That's the whole concept. It is very different from just generating revenue. It is about managing a scarce resource in an efficient and sensible way. And by the way, there are significant environmental implications to all this because what happens when people don't -- can't get -- can't find an on street parking space is they just circle around searching for one. That really adds up. Studies, as you know, suggest that the amount of cruising for parking spaces is just phenomenal. One 15-block district in california they found that just over the course of a few months that -- over a one-year period it was multiple trips to the moon worth of just driving around, people looking for parking spaces in this one little area. Anyway, I know you know all that. I just want to come back to the point that the mayor raised about what we know already about utilization of on street spaces throughout the week. And I have some numbers if we're able to present any on the screen, and rob, you and steve i know have looked at some of these. Based on the data that we have about -- friday night we already know utilization is up well over 100%. And if we could go a couple of slides after that. That slide right there. So we already know that usage, on street usage on fridays is up over 100%. Thursdays is up over 96 percent. Rob or steve, I don't know who would be the best person, most knowledgeable about this data that we already have. Can you walk us through this?

Sure, absolutely. We -- steve, if you will come up here. We took two weeks and observed parking monday through friday. And what we found was monday is about 67% full, but then starting tuesday with you start to fill up and then thursdays and fridays what you start to see is well over 95%, hitting 100%. And more. The way you get over 100% is obviously you have people parked illegally, whether they be in alleys and no parking zones or in front of fire hydrants, etcetera. So it's a very high usage.

(Indiscernible).

This was taken from Cesar Chavez up to 10th and I-35 to Lamar. And one thing, the additional data that the first line up there, Donald Schupp, who is the representative out of UCLA, and kind of the institute guru, basically he says that it's 85 percent occupied, that it's at capacity.

Riley: So 85%. And by industry standards that's considered maximum capacity. And the rationale for that is if you want to be able to find a parking space, that if it's 85% you can generally find one pretty close to your destination. On most blocks you will find a spot available. 85% is considered the industry standard for utilization, is that correct?

Yes. And in fact we know that private parking facilities used that sort of as a rule of thumb for setting price. If they're more than 85% full, anecdotally we've heard they start to raise prices to balance out and have people make other choices.

Riley: What do we know specifically about -- do we have data for specific streets, say East Eighth, Ninth, 10th? There we go.

We currently do not. And so this is the overall average. I think that's important to think about. This is the total number of cars parked against the total -- cars parked against the total number of spaces we have. Any time you have a system the size of what Steve discusses, you will have pockets of light use and other pockets of greater use. So it's -- but the average when you take the total number of parked over the number of spaces is the percent here. So that suggests that some areas are well overparked and others if they are light, they're compensated for for the areas that are overparked. That also allows us to set differences in times, councilmember, so that we reflect the surrounding land uses. If we need slightly less turnover, we can put five hour spaces out there versus three hour spaces. We found near schools and certain venues that that's very beneficial to the surrounding land uses, the five hour limits give us the turnover that we need to be the least restrictive.

Riley: Okay. What would you expect -- I see that Wednesday nights are generally already up over 90%, which is 10 percent higher than the ideal maximum utilization. What would you expect to happen if we start charging for all areas south of Eighth Street, but don't charge on Eighth Street? What would you expect to see happen on Eighth Street, for instance?

Let me use Ninth to be exact. I would expect Ninth Street and Eighth Street to be very heavily used.

Riley: Beyond the 90% that they're already?

I would expect it to get as close to 100% as it could, yes.

Riley: And the consequences of that based on experiences described in Schupp's book would be what?

They would be driving around and I think it would also put pressure for people to move further north into the state system and completely move out of our geographic management area as well.

Riley: Okay. To what extent will we be able to collect data, if we were to go with the current proposal, to what extent would we be able to collect data in those areas that -- where we are not charging for parking?

The process is straight forward. It's the same. Right now we have people counting the cars and someone driving down each street. And then we just calculate the numbers versus -- regardless of a block. And the only reason why we can't tell you block by block right now is because I'm not sure in this

last count if we recorded it per street face, but it's very easy to do.

Once you have meters in place and you're charging, don't you have a data stream based on utilization of the meters.

We have a data stream, but it's not the same as counting the spaces. Again, counting turnover we're not counting by specific numbered space. So there's not a one to one correlation. In fact, in some of the new technologies we're looking at to predict usage of the on street spaces, they're doing an algorithm between the use of the meter versus the use of the spaces. So it's still -- to get an accurate count we still need to go through with personnel and count. It's a fairly easy process. Like I said, we did this over a period of two weeks, counted everyday. It's fairly easy to do that on a quarterly basis, month or whatever. I would not recommend doing it on a weekly basis. That would be probably cumbersome, but we could do it monthly or quarterly.

Riley: From the standpoint of efficient management of those on street spaces, what do you expect staff would recommend based on utilization that is 90% or greater?

We would recommend as we've done the meter on those days to create turnover.

Riley: And that is consistent with industry standards, generally if your utilization is over 85 percent it makes sense to meter in those areas, not for the sake of generating revenue, but for the standpoint of managing that space efficiently and making space available without force -- without causing people to drive around a lot searching for spaces.

Yes, sir.

Riley: Okay. Thanks.

Mayor Leffingwell: Councilmember tovo? That was a long time ago that you made that request. You may have forgotten.

Tovo: I think I'll drop my question. I'll just say that -- I'll add my thanks to councilmember martinez and councilmember morrison for looking at ways to blend the two ordinances that were on the table. I think this -- we certainly have heard lots of concerns from ampt and from the many people who will be affected by this change. People who range from musicians downtown to servers in restaurants. Many volunteers in churches and other organizations. So I think this really is a good middle position of allowing people -- allowing us to get increased turnover, increased revenue, but also to really acknowledge the reality of the people who are going downtown and the way that this increase would impact their budget and their finances. So thanks very much for working it out. I hope -- I'll certainly be supporting this motion.

Mayor Leffingwell: Councilmember spelman and then mayor pro tem.

Spelman: I'm in the odd position of feeling totally outgeeked by councilmember riley. I'm totally out classed. And I've got to hand it to you. I didn't think it was possible, but you nailed me. Thank you. Let me pick up on where councilmember riley finished. I will not even attempt to out do that. That splendid analysis of the ramifications of getting over 85%, but it seems to me that if we've got a couple of streets which are free and a whole bunch of streets that are not, we'll have a whole lot of traffic on those streets that are free. And that I have qualms about not charging for parking on tuesdays and wednesdays, given how much utilization we've got, but I have much greater qualms about not charging on ninth street and the southside of 10th street. So mayor I would like to offer a formal amendment that we revise part 2 of the ordinance before us so that part 2, section b, so that the paid parking time limits for spaces located within the area bound bid lady bird lake, i-35, not eighth street, but 10th street, which is the way

the original ordinance was written, and lamar boulevard. So take out eighth street and replace it with 10th street as usual.

Mayor Leffingwell: Okay. That proposed amendment by councilmember spelman. Is there a second? Second by councilmember riley.

Morrison: Mayor, a procedural question here. Was that a friendly amendment?

Mayor Leffingwell: No, it was a formal amendment. I believe that was your intent with that? So proposed amendment on the table. Second by councilmember riley. Is there any discussion of that? That proposed amendment? Mayor pro tem.

Cole: He would just like to briefly say that I understand the concerns about people coming downtown, and as I had stated before, it's primarily an equity issue for me, which is that people who don't -- who come downtown after hours and have to come downtown during the day, they both should have to pay. They shouldn't be a difference -- there shouldn't be a difference between that. And there are musicians and nonprofit workers and those type of people that need that help and assistance also. So unless we're going to have a consistent policy citywide, it seems appropriate that we charge also downtown. And so for the additional hours downtown. So I'm in support of the motion because it expands the revenue that the city could receive. And it also recognizes that we have a disparity in what we are currently contemplating.

Mayor Leffingwell: Okay. And I'm going to support that amendment because it does address a question that I raised I believe awhile back. It minimizes the amount of traffic that's pushed northward due to paid parking south of eighth street or eighth street south. And at the same time I believe your intent was it leaves part of 10th street open for the church parking concern that was raised. Councilmember morrison.

Morrison: I want to take a minute -- obviously I'm not going to support this, but take a minute to highlight one of the recommendations that came from the subcommittees, from the urban transportation commission that looked at parking. We all got an email from chris shore, who was on that subcommittee, today who expressed his support for the compromise that councilmember martinez has offered and highlighted that the report noted that there are certain areas of downtown that lack -- and it's almost consistent with the recommendation because they were looking at seventh street. There are certain areas of downtown that lack adequate evening off street parking options. These include the area north of seventh street and west of guadalupe. And the area north of seventh street and east of san antonio. And then in addition there is not a strong need to promote turnover of on street parking north of seventh street and therefore meters with the three-hour maximum are not needed nearly as much as they are south of seventh street. So I just wanted to highlight that because these are folks that -- I think that addresses some of the points that I've already been raised here. And especially in a world where we don't have great public transit options for folks coming downtown at night, thank offering -- making sure that there is a place where there is free parking so that the folks that councilmember tovo had mentioned can, if they want to, put the effort into it, find a free parking space and also to mention the churches. My guess is that most of the church activity is going to actually be complimentary timewise with the night life, meeting earlier than eight or nine p.m. So there really would be some natural turnover there. So I really think the original motion is the right way to go.

Mayor Leffingwell: Further discussion on the amendment? Councilmember martinez.

Martinez: I won't be supporting this amendment. Not for the sake that it doesn't align with what is being proposed, but I think what it does do is it discouraging people moving forward from coming forward and sitting at the table to come to an agreed compromise. We had broad support for this compromise from venue owners to restaurant owners to musicians, to churches, to citizens. Many of whom were opposed altogether, but we brought them to the table and asked them to have honest conversations with us. We

worked on this back and forth, and as I said not everyone is going to agree with it, but what you say to these folks moving forward is the next time something comes up and we ask them to sit down and discuss with us, it's going to be very difficult to convince them that we're listening and that we're going to try to put something forward that does encompass the many concerns that were laid out. That to me is the element that's missing. I don't disagree with councilmember riley's theory and predictions of what could happen on eighth and ninth street. I don't disagree with that. That's one component. The revenue component is another. I don't disagree with that either. But no one is talking about the impact on people and the folks that work down here that have to come down here, that worship down here and that live down here. And that to me is the most significant component is the people, not the policy. And I think we've just thrown it in their face that your hard efforts and you sitting at the table and trying to come to a compromise is just not rewarded anymore. And I think that's unfortunate because we did have a broad group of stakeholders who were willing to put their differences aside and say okay, we'll support this, we'll -- we'll put it in place, come back and look at it in the spring and we'll all sit down again in the spring. I'm not saying we won't do that. We'll still do it, but we tried to achieve a consensus and we did achieve that consensus and now we're completely ignoring that. So I won't be supporting the motion. Mary mayor further comment? Councilmember riley.

Riley: I want to acknowledge the efforts of all those who have been involved in this discussion. And this discussion -- whatever we decide today, the discussion is not going to end today. This is going to be an ongoing issue. And one that is well worth keeping an eye on. We will now have a basis for getting a much better understanding of parking demand downtown. If we find that there is a significant impact on downtown businesses, that utilization drops well below 85%, then we will know that it was not a prudent move. That we should not have gone to the meters and we can make adjustments on that business. But the problem is that the one way that we can ensure -- let me back up. Councilmember morrison is absolutely right. There is a lack of off-street parking options in certain areas of downtown. And while there are extensive travel options available, we could do better at providing those travel options. But it will be hard to make progress on either of those things with the current system that we have in place. The one way to guarantee that we don't develop significant off street parking options in the areas like ninth and 10th street is to keep making street parking free in those areas. And that is not going to work well for anybody. Because there are going to be times -- we are a growing city. We have a finite number of on street spaces no matter what we do. It's about 3,000 spaces. And parking as we grow as a city, the demand for those spaces is likely to keep increasing. And off street options are going to become more and more important. Moving ahead with the current proposal will allow us to explore ways that we can do better at providing those off we can do better at providing transit options. We can make parking more convenient for everyone. Already as a result of this process, we have made significant progress. We had a report today from the downtown austin alliance on their progress in securing off street parking options for downtown workers. The list that I saw identified 14 different garages that have agreed to enter into contracts with downtown employees so that they could secure parking at reduced rates. That's exactly the sort of arrangement that we need to encourage, and not just for downtown employees, but for downtown churches, for all kinds of downtown businesses, because that is going to secure safe and convenient parking in a growing city. That is the most sensible, efficient way to make sure that those parking options are available for everyone over the long-term. That is going to be an effort that will keep going forward in the coming months. We can revisit this in a few months and see how it has worked, who has not been served well by all our efforts on this and what adjustments we need to make. But I'm satisfied that the decision this council already made was fundamentally sound, that we do need to keep talking and keep an eye on this and encourage people to stay at the table and work with us. But the course that we have set out upon makes sense and it is in line with efforts across the country to manage on street parking in a more efficient way. And so I'm going to support the -- this amendment. And I will also support the resolution, the ordinance, as amended, which contemplates there will be ongoing scrutiny and discussion on this going forward.

Mayor Leffingwell: And just to address some of the concerns here. I appreciate all the input from stakeholders too. And this is a compromise still. The modification of the compromise that that's the nature of that we're still monday, tuesday and wednesday are out of this equation as it stands right now. So that is substantial, especially looking at the statistics that were put up on screen by councilmember

riley, tuesday and wednesday are just about as heavy as the end of the week. Councilmember morrison?

Morrison: I do have a question for staff. I know that one of the things that our march or review is going to look at impacts to businesses, and I know that that's important. I think that would be also important to look at impacts to the people, as councilmember martinez was mentioning. Impacting people. So I'm wondering how we can capture that also because we have servers that their budgets to be impacted. We have musicians. Their take home pay will be impacted. The churches, the parishoners and church goers, their lives are going to be impacted. So I'm wondering how we can include that in the study also because i think it's not just about keeping our businesses alive, it's about the people that come downtown or are no longer going to be coming downtown. And so I'd like to be able to capture that in our review. Good luck, huh?

I am speechless. I know -- we'll look at a way. We'll propose a way to do that. I don't know how to do it right now off the dais.

Mayor Leffingwell: Councilmember tovo.

Tovo: I was going to say that's a good idea and certainly some things are measurable. You can ask the churches whether they've had a drop and the organizations downtown whether they've had a drop in their volunteer base. The churches keep pretty good track of their attendance figures and their donations on nights where they have service. I also wonder if you could enlist the help of the merchants organizations downtown, the organizations that represent the bars and clubs in the area. We've had a lot of communication from some of them over the last couple of weeks and perhaps they can provide at least anecdotal evidence about how this is impacting their employees.

Mayor Leffingwell: Mayor pro tem.

Cole: Rob, I know you recently implemented a program called pay for the next day. Can you briefly describe that?

We are in the process of implementing it because it is only useful with the extended hours. So with the rollout we would allow that. It consists of on the pay stations is the only place we really have the ability to implement that. It would be an additional button on the face of the pay station. Those are going in now. It would allow you to buy time for the next morning so if you were to leave your car overnight, you could come pick it up in the morning without a ticket. The other thing that we're doing is that we do have the idea of an amnesty situation on saturday nights so that -- or friday nights rather. So that if you choose to use an alternative way to get home or -- and can show a taxi receipt or signed an affidavit or show proof that you used another way home and you got a ticket, that we will work to dismiss that ticket, actually never file it if there's proof that you did that because you were incapacitated or otherwise disposed.

Cole: Well, those sound like they are truly two very good new provisions that you've made. Were they result of the stakeholder process?

They were the result of the stakeholder process and also the discussion that I think was happening here at council as well, yes.

Cole: I just wanted to say that while we might make a decision today to not do all the things that the stakeholders have wanted at different times, that we are doing some of those things and that we are trying to listen. The other thing I wanted to ask you about is the parking garage at second and brazos, which has i think about a thousand spaces and has a very low utilization rate, five or 10%.

Yes. One of the convention center garages. Yes.

Cole: Can you explain that? I'm trying to figure out if that could help us in some of our issues that we're talking about today.

I can give you some anecdotal things. I think the access to that garage is more difficult than the surrounding garages, so access to it is a little bit tough. I would have to defer to the convention center to give you any other ideas.

Cole: Let me not get bogged down on city hall type garages and other city-owned garages, but as we discussed at the work session, I think that we also not only need to think about valet parking, but also city hall garages such as the one that I just referred to as being able to add to our on street parking, if we're able to increase their utilization rate. And that was just a simple direction that I wanted to give right now. Thank you.

Mayor Leffingwell: I would just make a quick comment on that. I'm not sure but my recollection several years ago when we established the parking enterprise, that one of the requirements of that, city owned and operated parking enterprises, was that they not undercut commercial parking lots. So we would have to charge the same fee for city lots as for privately owned lots. That's one that's something you can check out. I'm not 100% sure of that. It just occurred to me that I recalled that.

I believe that's correct.

Mayor Leffingwell: Substantially correct. When you've been around a long time, you remember some of these strange things that happen. I guess we're ready to vote on the amendment. All in favor say aye of the spelman amendment say aye?

Aye.

Mayor Leffingwell: All opposed say no? It passes on a vote of four to three with councilmember martinez, tovo and morrison voting no. That brings us to the main motion as amended by the spelman amendment. Is there any more discussion on that? Councilmember riley.

Riley: I just have to add one thing based on the comments you were making about the prices for parking. I do think we want to be able to promote additional new awareness about the availability of off street parking and the prices that people will be expected to pay. Some of that information is already getting out there. The city has been working on making that available. There is already one app that is already out there. You can download it for free. It's called best parking and you enter your address and indicate what times you will be there and it will show you all the parking places you can park off street and how much you can expect to pay and the hours of operation. That is already out there. The city staff are working with developers of another app to have a new and better one available as of july, but I wanted to make sure that people are aware for those who are interested in scouting out the best prices for off-street parking, it is already in place and there's every reason to expect that that sort of information will be more widely available as we move forward with this. Again, the app is best park fog anyone who is into apps.

Mayor Leffingwell: so on the main motion, which is by councilmember martinez, seconded by councilmember morrison, amended by councilmember spelman and riley, all in favor of the amended motion, say aye.

Aye.

Mayor Leffingwell: Opposed say no. It passes on a vote of six to one with councilmember morrison

voting no.

Spelman: Mayor, i believe we have people waiting to item 75.

Mayor Leffingwell: 75, We have 11. We probably won't be able to get through that. We have 18 minutes remaining we could probably get 16, 17, 18 done possibly -- 74 has zero. Councilmember morrison.

Morrison: Item 76 is the other parking meter item. I wonder if we could probably dispose of that. To delay implementation until january?

Mayor Leffingwell: Let's take up item 76 with a motion by councilmember riley to withdraw that item.

Morrison: It was to approve it.

Mayor Leffingwell: In that case we have a number of speakers who are signed up. So we will try to get through those then since we're already starting down that track. Johanne barts is -- has gone. Ronnie reeferseed -- johanne barts has signed up neutral. Ronnie reeferseed has signed up against. You have three minutes.

Ronnie reeferseed. Again, I'm against this --

Mayor Leffingwell: reeferseed, that really is in bad taste. Of course, I respect free speech, but the noises are -- just the comments are really in bad taste.

Well, I respect your opinion, but as far as i know, I don't agree with that. But I'm again speeches, political speech includes puns and humor. [One moment, please, for change in captioners] test test test [applause] next speaker a mary craddock, signed up for, mary craddock. You have three minutes.

Evelyn morrison by supporting the delay for particling meter delay. Were showing their concern for the spirit ofs aaustin. When martinez offered a compromise supported by morrison at our meeting two weeks ago, we had a chance to share our end of the concerns with the folks who use and run many of the world famous institutions of austin. Martinez showed he is willing to address citizens' concern with interaction, and growth. The fact that leffingwell and the council's working group this tuesday stated just because you don't endorse martinez's bill doesn't mean he will vote on it, absolutely pawld me and others. We're still concerned about waitresses on low budgets and just want to folklize the perception that chris riley is using this as a means to get at people into mass transit and alternative transportation, which is fine, but we're not supporting things like the dillo, which could help people get to their cars in the parking lot or the night owl and safe biking lanes. I myself had a back injury in front of the alamo where there wasn't a biking lane two years ago. It's really kind of a half-hearted goal. Let's see. By charging downtown high income business folks from 30 and adding 50 cents per hour to the existing dollar we can satisfy concerns about friendly tourism, low paid wait staff. One friend's husband made \$40 at a gig downtown and let those with business expense budgets, health insurance and retirement show the true spirit of equity that city council member c cole is trying to speak of. Certain garages have been by the city itself exposed. I personally and most of the amp group of mostly 1400 support the delay. I know the way the council votes on the delays will affect elections next year. It is important in these discussions, friends, networking and -- we've forged on, including and without the council. We all here perceive austin to be fun, passionate, vibrant and cool. Let's support our local and entrepreneur spirit and talents. Let's encourage communication, let's make and find the win-win win. Thank you. [Applause] travis ?aifly? Travis snavelly is signed up for. And you have three minutes.

Good afternoon, council, thank you very much. I didn't think I'd be speaking. I thought I'd be here late but I don't have much prepared. A lot of people think this is a condensed area that this particular 1st through 10th encompasses, but what people aren't mentioning is that there are a warehouse full of park

meters that have already been bought that they were going to be going up in the future all over austin, so once that happens I do believe that it will be some issue where people won't be able to find parking outside of that condensed area right now, and it will actually affect and possibly homogenize downtown as far as right now you have higher end bars and you have lower -- bars, and it's a good mix and I know that some people we talk to, when they put meters downtown, when they put meters all around, it changes things, it changes the ecosystem of downtown and a lot of -- it kind of pushes out the grittier bars and makes it just high-end, kind of. Also, the one thing a lot of live music venues, they feel like the meters were a direct attack on the live music, like some other ordinances have that occurred over the past years and the council and the city in general wants the music out of downtown or just very condensed. A lot of musicians feel that way as well. And and I think a lot of people who support the delay and who support the complete repeal of the amendment, they feel like they're public streets, they're already paid for and they should let the free market sort of work its course instead of the social engineering aspect where you're trying to push people into public transportation. Another issue is that the economy at the federal level, you know, we've been downgraded by s&p. A lot of people, that's going to affect us and they're talking about downgrading us again and a lot of people won't be able to afford cars in the future because of the economic impact. We have a lot to deal with in the next decade. I think the economy will be collapsing further, in my belief, and I believe it's being done on purpose by the people who control the federal level of government, which isn't the politicians themselves, we all know that. And I do think that the -- another issue well, I think that's all I have to say but I think there are a lot of changes in the country as well as in the city and I don't think we should just be going along with -- he will r well, that's basically all I have to say, but I do think that meters are going to go up all over the place and it will change the ecosystem, and I'm not for that. I like downtown the way it is and I like the live music aspect. I know when I first moved here it was a very special feeling to get out of hi my car and hear live music coming from all directions. From a council member, they don't want to push downtown music out of downtown but just control it and keep it compressed into a certain section. One thing I want to mention also is the people that -- the condo developers who built condos, they did not use the glass that was sound resistant. They used the cheaper stuff because it would cost millions of dollars. I'm wondering why they did that in already existing live music venues and the only thing I can think of is possibly there's an agreement beforehand that they'd get the live music out of the way. thank you, travis.

Thank you. [Applause] so those are all the speakers that we have, and before we normally take a motion on this item, I've asked the city attorney to take a look and see what -- we have two motions that are potentially in conflict. So before we take a motion on the second -- and a second I would like to hear from the law department.

So just briefly reviewing robert's rules, which is what I believe this comes under, I'm not sure we can have an amendment that's going to be in conflict with the one that just passed. I don't think that we can procedurally do that. you don't think we can entertain -- this is a separate item. It's not an amendment. that's fine, mayor. I realize from a pragmatic standpoint that it's probably not -- wouldn't pass even if it was valid thing to do, so I'll withdraw it.

Mayor leffingwell: okay. There never was a second so it officially wasn't on the table. So council member morrison withdraws her motion. assuming we can hear from council member tovo. Did you have an issue? Okay. no comments from council member tovo? Okay. 76 is without objection withdrawn. Is there any objection to that? All right. So now we'll go to item 16, which was pulled by council member -- excuse me, mayor pro tem cole. thank you, mayor, i just had a brief comment to 16 and 17. 16 involves assistance to the homeless community as this council has made a very large commitment there in the form of permanent supportive housing, and it also involves actually support services, no. 17. So I wanted to recognize them for their hard work on that and also to announce that november is national homeless month. Thank you, mayor. thank you. And we do --

cole: I move approval. we have two folks signed up to speak. Gus pena. Is gus pena in the chamber? And dr. nelda garza. nelda garza in the chambers? So those are all the folks that we have signed up to speak. They're not in the chamber. Mayor pro tem moves approval of item 16, second by council

member spelman. A discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. 17 also pulled by mayor pro tem cole.

Cole: move approval.

Second. there are no citizens signed up to speak, mayor pro tem cole moves to approve item 17, second by council member spelman. Is there discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. So all of the other items that we have -- we could try to take up item # 3, which has -- 33, which has been two speakers. Item 33, clay defoe is signed up against. Clay defoe. So you have three minutes.

Thank you, mayor. Good afternoon. Thank you, everyone, for staying along. We've been here, what, eight hours? Nine hours? First I'd like to practice this idea for the downtown rangers, this grant money, \$30,000 from the downtown alliance. I'd like to say I signed up to speak on 15 items today and I've read the rules of the city, and it appears that they are in violation of their own rules. They're only allowing me to speak three times. I'd be happy to discuss it later. System discussion 25-27-about, in subsection 29, the presiding officer should not refuse permission to speak to a person who has registered to speak who is present, which I was, and ready to speak, which I was, unless the hearing or consideration of the item, which a person has registered has been continued to a later meeting. You are in violation, council. I will also say the constitution says the first amendment of the bill of rights ratified in 1791, congress shall make no law prohibiting the free exercise of speech and the ability for citizens to redress their government with grievances. Now, that is a paraphrase. The model for that amendment was written by george mason, a patriot from virginia. I hope you know the name. The virginia declaration of rights says, the freedom of press and speech shall not be abridged, and can only be restrained by despotic government. That is a patriot speaking. Now to the item. Let's read it very briefly. I'm running out of time, because I had to go into all that. They're not allowing me to speak. Citizens, and then -- they do the same thing to you so watch out. Our democracy is at stake. All right. What are we at? 33, Approve an ordinance, \$30,725 from the downtown austin alliance to the police budget to appropriate an additional \$30,000 for the downtown ranger program. I've been downtown. There's a ton of police there, especially at night. My friend almost got ran over by one of the ones on horseback who was being discourteous, and I'd like to say we don't need the rangers. I used to live in another city that had a similar program. They wore yellow shirts, here they wear red shirts and look very orderly. Drive city trucks, do maintenance, they surveil the area, just like police, make sure nothing bad is happening. They on a personal level do a fine job and we should commend each one of them personally but I'm undercutting your premise. I believe we don't need this organization. We have plenty of police that do a fine job. If downtown alliance wants to have their own private force, go for it. Let's make the downtown rangers a private organization, but I don't think we should be giving taxpayer money to a group that's completely unnecessary. We need to start protecting our citizens' right, encouraging them to speak in front of the council, mayor, instead of discouraging and taking illegal action to stop me from speaking. So I will have to be forced now to take further action. Please vote no on this item. your time has expired, and just for your information, the downtown rangers are not paid for by the city, they're paid for by the va --

[inaudible] correc t. Ronnie reeferseed?

I'm ronnie reeferseed. I'm sorry if that bothers you, but not really. And again, this -- I'm just worried about this police grant of 30,000 more dollars. We need facts. Why do they need 30,000 more, and more importantly, in agreement with clay, i don't think the need has been demonstrated, and downtown austin alliance, what are their motives? Why do we have to finance their needs? I mean, again, I agree

with what clay was saying, and again, we can't afford this, or maybe you-all don't mind spending taxpayer money, but as a poor person it makes me very sad when I see these frivolous things just be thrown up there and, well, i guess we'll go along with that. Well, you know, we'll do it. It's not your money to waste. It's our money. We're the ones who ought to be in charge here, and again, what clay was saying, we don't need to be treated like children. We have a right to speak, and we have a right to make noise. We have a right to sing, we have a right to yell, and that's the basis of freedom of political speech. And if you're unsure about it you might check the constitution and/or the supreme court, which is time and time and time and time again said no, you authority figures, you don't have the right to take anybody's first amendment speech. Not once a month, not once every three times, not -- never. So you-all got to study the constitution and we'll all be better off. Thanks a lot. [Applause] those are all the speakers we have on item 33. Council member spelman? difficult though it is for me to agree with a guy who habitually wears a ron paul t-shirt, I have been looking in the backup for this item and found to my dismay that we don't have a justification for \$30,000 more for the downtown rangers program. Could somebody provide one for me? Why are we putting \$30,000 more into the downtown rangers program, which is a fine program, but we ought to justify an additional expenditure. [Applause]

good afternoon, mayor, mayor pro tem, council. I'm bill brice, represent downtown austin alliance, clean and save programs. First of all the rangers program is paid for completely by the downtown alliance and those aren't taxpayer dollars. Those are dollars that our commercial property owners pay for such programs. The reason there's an increase in the cost of the program is there's been a change in the format of the program where we have two lead positions created, and that those people will be paid additional money for serving in those roles. So they're somewhat supervisory positions that will cost a little bit more, and that's -- so the staffing level remains 13 full-time equivalent staff, but two of the ranger positions will become lead positions and that's why it's going to cost a little bit more. tell me very brice, why is it we need to give two of these 13 people lead positions?

With the number of rangers on the street at any given time there's only one supervisor for the entire program at this point in time, so he's not on duty during the -- all the hours that the rangers work, so the two lead positions will serve in supervisory capacities so there's somebody of supervisory role at all times that the program is operating. that sounds very sensible. thank you, sir,. I move approval, mayor. council member spelman moves approval of item 33. I'll second. Discussion? Mayor pro tem cole. mayor, will you please show me abstaining from this item? Council I -- mayor pro tem cole is abstaining. All in favor say aye.

Aye. all opposed say no. Passes on a vote of 6-0 with mayor pro tem cole abstaining. Okay. 30, time for live music and proclamations. The council will stand in recess for approximately one hour. welcome to live music in austin, texas at the city council chambers. We're privileged tonight to have the band with the unusual name of frank smith. Although I am informed that no one in the band is named frank smith. They are actually aaron sinclair, kevin bieby, kyle rowbarge and steve malone, and they're originally from boston. All of you from boston? Relocated down to austin, so how do you like the weather down here? Been here four years, and recently produced their fifth album, which is a unique blend of indy rock full country songs, big strike in silver city represents the band's first austin-based release, a new lineup that is their best song so far. So please help me welcome frank smith. [Applause] [🎵 music playing 🎵]

take it away. .

Hey, guys, thanks a lot for being here. We really appreciate it. [🎵 Music playing 🎵]

mayor leffingwell: okay. Great.

Thanks a lot for having us. [Applause] all right. Before you leave I've got a couple of softball questions for you. Basically, do you have a web site? Where can somebody buy your music and where are you

playing next?

We do frank smith com and we're playing and antone's on thursday night next week.

Antone's. All right. One more thing to do here. We have a proclamation in your honor frank smith's honor. Be it known that whereas the city of austin, texas is blessed with many creative musicians whose talent extends to virtually every musical genre and whereas our music scene thrives because austin audiences support good music produced by legends, local favorites and newcomers alike, and whereas we're pleased to showcase and support our local artists. Now therefore, I lee leffingwell, mayor of the live music capital of the world, austin, texas, do hereby proclaim august 18, 2011 as frank smith day in austin, texas. [Applause] okay. I'm pleased to present this proclamation tonight in honor of our city of austin office of holy spirit security. Very important department, one that I've worked with very closely ever since I've been mayor. We've made some great progress. We established an intelligence center in cooperation with the texas department of public safety, and of course federally funded, and also have upgraded, I believe, our training and collaboration efforts with law enforcement and public safety agencies all over central texas. A big part of that is the director of that department, otis latin, who's standing here behind me. Some of his staff are here also. I don't know your names, but otis is going to certainly introduce you and recognize you for the important work you do to keep austinites safe. And I do have a proclamation that I'm going to read in your honor. It reads, be it known that whereas national preparedness month provides an opportunity to remind austin residents to prepare their homes and families for emergencies ranging from natural disasters to potential terrorist attacks, and whereas the city of austin office of homeland security and emergency management is working to increase public activities to educate citizens about emergency preparedness and how to take -- how to take action, and whereas, september 6 kicks off the largest class for the community emergency response team during which 90 new participants will be trained, joining 800 others who have gone through the program since 2003, and whereas citizens are urged to visit the web site, com, to learn how to develop their own emergency preparedness plan for their families and help austin become a more prepared community. Now, therefore, I lee leffingwell, mayor of the city of austin, texas, do hereby proclaim september 2011 as national preparedness month in austin, texas. So congratulations, otis, and congratulations to your staff. Here's your proclamation and I'll give you an opportunity to tell us a little more about it. [Applause]

thank you, mayor, and we wouldn't be as effective as we are unless we had a great mayor, council that assists us to be the best prepared city. And also having a staff like I have up here also helps us to be able to continue preparedness throughout the year. We are celebrating preparedness in september as a national thing, but the staff helps me and the city stay prepared year-round. And I have with me billie atkins, we got scott hawkins, mind I mcginnis and ken wade cooper. Those are some of the staff we have that help us be prepared throughout the year, and we're going to have a lot of different programs we're putting on in september. Thank you. [Applause] would the members of holy cross catholic church like to come down? Hi. All right. God bless. Well, I wanted to let the members of the church and the general public know, if they don't already know, that every council meeting before we start we have someone who is a minister or involved in the religious community say a prayer for us. Now, we might not always act like we have received that prayer, but we do get it. And so because of that I try to make sure that we recognize not only people in the community who are doing good but people in the community and the churches that are really the foundation of our character and values in austin, and with that we have prepared a proclamation for the holy cross catholic church. Holy cross catholic church was founded in 1936 and almost immediately embarked on a progressive mission by establishing a hospital on church grounds that served east austin for nearly 50 years, and whereas meals on wheels and more also began in 1972 at holy cross serving 29 people three times each week. Today more than 1800 meals are served daily and hundreds of more lives are touched through five other outreach programs. And whereas many holy cross parishioners have been involved in educational, social and political issues that affect our city and state, the church has distinguished itself in its activism and community leadership. Now, therefore, I lee leffingwell, mayor of the city of austin, texas, do hereby congratulate the parishioners, staff and clergy on holy cross suburb church and rich history and help to the community, and proclaim september 17 and 28, 2011 as the 75th anniversary of holy cross catholic

church. [Applause] do you want to make a comment?

Council member cole, mayor leffingwell and city council members, thank you for giving this honor to holy cross catholic church on the occasion of the 75th anniversary of holy cross catholic church. In addition to the establishment of the church and the hospital, holy cross also established a school in 1972 that operated for 19 years and produced many outstanding alumni. As indicated in the proclamation, holy cross has been an active part of the austin community since 1936 and our parishioners have served on the austin city council, travis county commissioners court as trustees of the austin independent school district board, the current faith representative, legislators also served in the house of representatives as speakers, and state president of the texas naacp. To commemorate this occasion, we are having a banquet on saturday, september 17, and a mass celebration on sunday, september 18. We will have reverend bishop joe vasquez will be the main sell brandt. Those who are interested in attendant can call 472-3741 for more information. Thank you, again, for this. And I would share this holycross catholic church. Thank you. [Applause] sell brants so I'm joined here by ruth glendinning, and susan buhrman who are the community founders of renaissance market which is celebrating its first anniversary. We wanted to recognize that. It's a very -- I guess i shouldn't say very unique. It is a unique experience and development going on -- in sort of far south austin.

I'd say ultra-south austin.

Ultra-south austin, and I'm going to let you-all describe it because I know you'll do a better job than me, but I want to say that i got to visit with my staff barbara rush the other day and it's really an exciting and inspiring place to get to visit. So I want to encourage folks to do that but I wanted to recognize your first anniversary with a proclamation. Be it known that whereas community renaissance market is a 6500 square feet grocery store which has found new life as entrepreneurs and whereas businesses including a collection of bakers, cell phone repair, antique boutiques, smoke shop, a too studio, a computer repair shop and an inflatable playscape have found a start, and whereas crm also provides an accessible technology training and placement program for people with disabilities and an apprentice training program for foster children, ages 18 to 22, and whereas during the current economic downturn crm is on an unswing, revitalizing an old building, creating community and preparing more people for a sustainable future. Now therefore, i, lee leffingwell, mayor of the city of austin, texas, do hereby proclaim august 24, 2011, as community re market's 1st anniversary. Do you want to say something? Give people a flavor.

When we started this a year ago we never expected to have a proclamation from the city of austin. Every day we get reregarded because -- -- rewarded because we've helped people who were left behind by the economy and we've built a stronger community in the neighborhood.

What it is -- what is a slow tech incubator? It's sustainable local organic work. It is the way a lot of people live their lives on a day-to-day basis. Technology is a wonderful thing but it's just a means to tell you story. It's not the story itself. I just feel very proud that we have this wide range of people who get a chance to actually fulfill their dreams in a safe place.

I'd like to thank the mayor and council for the opportunity for ruth and i to accept this proclamation on behalf of over 30 of the hardest working, most awesome small business owners in austin, texas. This is for you guys. We are a cross section, we are from a land called ultra-south austin. We're the folks south of 71, and our small businesses are a cross section of middle america. We are blue collar people, senior citizens who have a need to supplement their income to afford medication, cruk workers who can't find a -- construction workers who can't find a job, corporate people who can't find a job and who have found that self-employment is the only secure employment. With community renaissance market a small business person can open a business for as little as \$400 a month, and we have new businesses paying attention in ultra-south austin and ruth and proud to accept this. [Applause]

I want to mention that it is a place that, you know, welcomes folks to come down and visit and stroll

along main street and you'll get to see all the different small shops and bakeries, they just dropped off some --

we brought you cake balls. yes, cake balls, and a little cafe, and so it's really a wonderful place to come and stroll and get out of the heat.

Yes, it's air-conditioned.

And also there's some wonderful, beautiful art, a new mural that's been done there.

A mosaic by craig lopez and mike nichols run south base gallery.

And for all you swimming people out there, it's an underwater mural that you want to see. Can you tell folks what the hours are and where it is.

We're at 6800 west gate boulevard, 78745. It's a former albertson's, at the corner of westgate and william canon. Our hours are monday -- well, we're there every day, were you the main hours are wednesday to sunday, approximately 10:00 to 7:00. And we do have a farmers market on sundays that has 00 to 00, and all of that is [inaudible]. [Applause] so now we have a lot of folks from our aquatics division here, if you would come join me up here, I would really appreciate it, because i wanted to take a minute today at the end of the summer, getting to the end of the swimming season, to recognize the folks that make -- really are the backbone of making life bearable when it's over 100 degrees in austin, texas. These are folks from the aquatics division. All right. Come on in here. And, you know, when we moved here -- I moved here with my young family in 1981, and the first thing we did was go to barton springs, and after that we sort of just tried out all the swimming -- not all but a lot of the swimming pools around town. There's just such an amazing choice and selection, and offer austin such a choice, and especially in this unbearable heat that we have had. I've been at the pools myself because I love to swim, and also it's a great way to stay cool. And I am just so impressed when I see, for instance, down at barton springs on a 00 and it's crazy because it's 104 degrees, and there's little kids running and jumping too many times on the diving board and all of that. These folks in the lifeguard chairs are as patient as can be. They just blow their little whistle. They have to blow it about 6 times to get their attention. And the bottom line is to keep us safe and we wouldn't be able to joy, and the -- enjoy and the thousands of people in austin wouldn't be tobl enjoy. So I wanted to recognize all you add to the city of austin and all the folks that really depend on swimming to stay sane and cool with a proclamation. This is to show our appreciation. And it says be it known that whereas the record heat this summer has prompted record use of barton springs and the city's six municipal, 27 neighborhood and six wading pools, along with ten splash pads operated by the aquatics division of our parks and rec department, and whereas the pools have 8 million visitors through july, and barton springs is on track to break its attendance record with almost 530,000 customers and doing this unique swimming experience this year, and whereas the aquatics division composed of 26 full-time employees and 700 exceptional seasonal employees staff the pool, teach swim lessons, coach swim teams, serve as lifeguards and maintain the facilities, and whereas we recognize that the hard work and commitment of the seasonal staff enables citizens to enjoy a respite from the heat in a fun, safe environment. Now, therefore, I lee leffingwell, mayor of the city of austin, texas, do hereby proclaim summer 2011 as our aquatic division's record setting season in austin, texas. So I want to thank you allfor the work that you do. [Applause] and I didn't specifically call out but we have the 700 seasonal -- we have the full-time aquatics staff and another -- that keep things running smoothly all year long, and the management of our pools, but also importantly the maintenance staff for the pools, because with all that use it's really important that things stay up and running and clean. And we do have certificates, and so I want to read these off to all -- I'm going to read one of them. They all say the same thing except for the names are different. So I'll just read one. It says certificate of appreciation for her contributions for seeing the aquatics division through a record setting year, jean crowley, this one is for jean, has rendered valuable and distinguished service to the citizens of austin by overseeing the more than 700 seasonal employees, maintaining or staffing the city's 50 water recreational facilities, including austin's iconic barton springs. They've provided

citizens with a greatly appreciated respite from this summer's record breaking heat. We are most grateful for their hard work and consideration of our citizens, and then it says, this certificate is presented in recognition thereof this 18th day of august, in the year 2011, signed by the mayor on behalf of all of austin. So jean is right there. Thank you. And chris williams? .. paul luke? Is that -- and wayne. And daniel schneider. Thank you, daniella. Daniella and i understand you're a seasonal employee that's been with us for five years. Thank you, and congratulations. Pedro, pedro -- I can't read this -- aaron neily? Aaron, and I understand you are also a long-term seasonal employee. Jody jacques? Susan hernandez -- or juan hernandez. [Laughter] doesn't that look like susan? [Laughter] justin davis? Do I have that one right? Jennifer cabay?

Cabay.

Thank you. Jennifer. And james adams. Do any of you-all want to say a word or two?

Well, I'm exhausted just hearing the list of what we do. Well, we are -- we really appreciate this honor, and we appreciate the support of council, the mayor's office, the department and the citizens of austin, and as long as -- as long as the sun is shining we'll be out there keeping you all safe at your pools. Thank you.

Thank you. [Applause] and, you know, I just want to mention a few months ago there was a proposal to maybe close a few of those pools next year, and we heard loud and clear from the citizens of austin that that was not going to work. There you go. [Applause] is that.

Mayor Leffingwell: We are out of recess. At the request of councilmember spelman, we will now take up item 75, if there's no objection from the council. Out of order. And we do have a number of speakers signed up, councilmember spelman, did you want to make any comments before we go to our speakers?

Spelman: No, mayor, but I appreciate your picking up item 75. I know several people have been waiting since this morning.

Mayor Leffingwell: Okay, first speaker is michael krietz signed up against the item. Michael [Indiscernible] is not here, you are here? [Indiscernible]

councilmembers, thank you so much for the opportunity to share our points of views today. I would like to say that i just heard about this monday, I would also like to thank your staff, also, who made a lot of phone calls, very gracious and kind to bring me up to speed and meet with me, some of them in person. I'm really impressed by the effort. thank you. My name is michael [Indiscernible] the executive director of the texas coalition for consumer choice, also senior pastor of the gates of dom monday dominion and .. I started an organization called the texas coalition for could you remember choice back in 2007. Consumer choice back in 2007. Devoted to promoting personal responsibility, protecting consumer choice and enhancing the economic state representative of communities and individuals. Our focus is educating freedom, protections, we also advocate for responsible public policies and ensuring that individuals and families have opportunities to fully participate in our economy and society in a cost effective and informed manner. If it relates to family finances, how to budget, how to save, how to invest or borrow responsibly and efficiently when the need arises, we are there to help our members. The last couple of years i have been doing financial literacy education workshops, trying to teach our members how to borrow responsibly. We have over 60,000 members in texas. Many austinites have real life concerns, consumers advocates and elected officials may never face like how to find the money to keep their lights on or get their car fixed so they can get to work in the morning. Credit access businesses provide financial services not available from other lenders such as banks and credit unions and it is these customers that would receiver most, they no longer have access to short-term lending. Borrowers understand short-term loans. That's what we found. We also know they are more responsible and less expensive than other options like bouncing a check or paying a credit card bill. Late fee, things that will

actually damage their credit. So I'm encouraging you to listen to the people who actually use this product. Many austinites work hard for a living, they do not have a lot of flexibility with their job schedules. As a matter of fact there were some that were scheduled to speak today but had to go to work. I know that more consumers wanted to be here today in support of maintaining financial alternatives, including pay day and title loans but they couldn't get off of work in the short time frame since the measures were introduced. I did bring some letters. I don't know where to leave those, with the clerk or not.

If you would give them to me I'll pass them down.

Okay, thank you. There's some letters of people who would have liked to have been here but had to ..

Cole: Okay, your time is up, can you wrap up?

Yes, the point of discussion that I really wanted to make is that you postpone the ordinance to give the public more opportunity to weigh in either through a formal process or at least as a longer range agenda item. It came up really quickly. We vice-president had a chance to mobilize or rally the troops, so to speak, but there are more people who would like to participate in this process, please respect the time it takes for these people to, you know, reach out to you and give them a chance to speak.

Cole: Thank you, mr. Price.

Thank you very much.

Cole: Next, we have daryl jackson who is signed up against. He had to leave? Okay. Next we have karen [indiscernible] and don baylor has donated three minutes, so karen you have six minutes. Are you here? Serta? Not here. The next speaker that we have is rebecca lightsey. Hello, rebecca. Signed up for.

Thank you very much. I'm rebecca lightsey, I'm executive director of texas [indiscernible] we are a public interest law center working state-wide based here in austin. And first let me thank all of the council for your leadership and austin in general and so many of you for your leadership on this very critical issue. Texas apple seed has actually been working on this for several years now because our mission is to find systemic solutions to problems that are facing some of the most vulnerable in texas. And this is an issue that has come to us from a variety of ways of how it is impacting so many of -- folks, both in austin and around the state. 10 Years ago, there were very few auto title and pay day lenders in the state. Today, here in austin, alone, there are over 100 right here. I think this demonstrates that there is a need for short-term access to credit. But I think it also shows that that access must be provided fairly, which i believe the ordinances in front of you today help do. Right now, unfortunately, there are unscrupulous lenders who are taking advantage of those who are most desperate. It is not at all uncommon for the apr on these loans to be in excess of 500%. Most -- many of these loans do not allow partial payments. So you either have to pay all of the loan at once or incur the fees again. For instance, if you take out an auto title loan that -- of say a \$4,000 loan, that will typically carry fees of upwards to a thousand dollars. So at the end of that loan cycle, if you cannot repay \$5,000, you're going to have to pay the thousand dollar fees again. What that does is that it traps people into a cycle of debt. The same mechanism holds true for the pay day loans. We have done some research and we have a study here, so if any of you would like a copy of it, I would be happy to share it with you, of who takes out these loans. We know that the majority of the borrowers are women. Many of them are single women. They are young. They are people between -- in their 20s and 30s who don't have a lot of financial experience, they are disproportionately african-american, a large number of hispanics, the way the current loans are structured as I mentioned, they really drain both individual family incomes but also have a significant impact on the overall economic stability of our communities. We believe that the ordinance that you are considering tonight are fair. It allows people to pay back the loans. They are really reasoned. They are

tied to the ability of the borrower to repay [buzzer sounding] and i thank you for consideration.

Cole: Thank you, rebecca.

Spelman: Mayor pro tem?

Spelman: lightsey, in your experience, do most of the borrowers, most of the people who go to short-term lenders, what we've been calling pay-day lenders, do they expect to pay the loan back in two weeks when it's due or do they really expect it to roll over several times?

Well, the industry statistics say that most of the borrowers repay the loans. Other experience shows that they often get strapped into that cycle of -- trapped into that cycle of debt. If you can repay when the loan is due, you are pretty much okay. But once you get trapped into that cycle of debt, it's very, very difficult to get out of that.

So it would be a fair statement to say most people believe -- like most -- apparently most short-term borrowers, they borrow the money, pay it back, that's fine. They pay it back on pay day, if they can't pay it back on pay day, they are trapped. Most people don't expect to unintended consequence.

Very much an unintended consequence. Clearly there's a need for a product. It's a need for a product that is fair to everyone.

Spelman: Thank you, ma'am.

Cole: Next, we have jim george. Is jim in the chamber? Next we have anne [indiscernible] anne, are you in the chamber? No? Next we have tim tutt? Tim, you have three minutes.

Thank you, madam mayor pro tem, members of council. I appreciate you considering this issue. I'm the pastor of united christian church here in austin. You know the statistics and the numbers that involve pay day lenders, the terrible amounts of interest that they charge, the number of those businesses in austin, the way they are spreading across the map, I want to tell you a story. Our congregation has something like 30 public school teachers, times are tough for public school teachers these days with state budget cuts. Three of our church members teach at one elementary school up in north austin where our church is. That school was set to lose four teachers in the spring. Times are tough, the teachers are stressed, distressed as you can imagine, trying to figure out how they can pay their bills. In the middle of that, that school, these fliers showed up from a pay day lender in austin. This flier mailed out to every teacher at that school hand addressed by name to these teachers who are faced with losing their jobs offering them fast cash. If you read the fine print, it's really fine print. It says, this flier does, the apr for a \$360 advance is 533%. Now, the print is tiny, but at lease its there. We have to give them credit for that. That's appalling, 533% interest. To send that flier to elementary school teachers who are afraid they're going to lose their jobs when the money goes away, this flier was sent by an austin pay day lending store. Members of the council, i would say to you simply that's wrong. That's an example of the pay day lending industry preying on people's fears, relying on quick fixes, they are not really quick fixes they sink people further into death. Rebecca was saying the bowerrers do in fact pay off, sometimes they do that by going to the pay day lender just down the street. While the statistics may show they paid it off in one place, they have incurred further debt down the road. What this flier promotes unfortunately is legal currently and it may even tell the truth in the really small font at the bottom, but I would say that it is immoral. I understand that charging a reasonable amount of interest makes business sense, I understand that there are legitimate lenders, even legitimate pay day lenders operating around, but far and away this is an example, the current practices of the pay day lending industry are just not reasonable. I have heard this unfortunately from my church members who have taken out those loans and been very embarrassed to get trapped in that cycle of debt. I think these current industry standards are immoral and out of control predatory, I think the resolutions are spot on,

thank you for your support of these changes.

Mayor Leffingwell: Next speaker is Barbara Boodie, correct me if I mispronounced your name, please. Mayor, it's park break buttie. I am here representing the diocese of Austin. The teachings of the Catholic Church, we have warnings about usury and the exploitation of people, lending practices that intentionally or unintentionally take unfair advantage of one's desperate circumstances are unjust. Such practices risk the stability of families, Catholic social teaching demands respect for the dignity of persons. Shows a preferential concern for the poor and vulnerable and pursues the common good. These principles, coupled with our teaching on economic justice, form the basis for our support for this ordinance. Earlier this year, our bishop Joe Vasquez gave testimony at the legislature we noticed that while our charitable groups like Catholic Charities and the Society of Saint Vincent de Paul which gives millions of dollars in our community in charitable aid to the poor, while these ministries may be providing perhaps up to \$300 cash assistance to a family for food or utilities, very often that same family has an outstanding pay day debt of 3 to \$500. When we ask them about their financial circumstances, none of these families tell us that they went to the pay day lending place for credit assistance or to repair their credit. Generally, they are embarrassed to admit that they sought a loan for an emergency without understanding the fees involved. We are concerned that while we are supporting people with food and utility assistance, that their other discretionary dollars are going out the door to repay these loans that are usurious and 500% or more interest. We are in favor of this ordinance and we think that it is fair and balanced, thank you.

Mayor Leffingwell: Thank you, Barbara. Walter Morrow? Also signed up for. And you have three minutes.

Thank you, I'm Walter Morrow, the director of Foundation Communities. We are very passionate about support for this ordinance and other ordinances on zoning, we serve thousands of families working poor in Austin with housing and tax assistance and financial coaching. About a third of our financial coaching clients come with us, to us with pay day lending outstanding loans. It's not just four, five, six hundred% interest, it's that these loans become a trap. A good example, one of our clients Robert came to us. He had taken out a loan and his wife was expecting a baby at seven months, she had complications and couldn't keep working, he had some car repair problems. It's very -- he didn't think about it, but it was right down the block, it was 500 bucks, it took 10 minutes to get his loan and it only -- only costs \$100 the first time. Two weeks went by, he couldn't repay the full \$500, he ended up paying another 100 and just rolling that over. By the time he came to us, needing some coaching help to put his financing back together, he had rolled over the loan seven times. He paid 700 bucks and he still owed the \$500. You may think that I'm just picking one bad example and that's what the president of North American Easy Corp told me on Tuesday. He wouldn't confess to the average typical amount of rollovers for his clients. He just said, you know, we have very loyal customers. The Cash America lobbyist I talked to admitted that seven loans is average. National studies show seven to 11 rollovers is the norm. These folks are really good at behavioral economics. They know how to make a quick, easy, friendly and -- they are there to help when you are in a financial emergency to get you that cash now. They pretty much know who the customer base is and the likelihood that they're going to be stuck when the next pay day comes around. This practice is outlawed in 15 states. Dallas passed these very similar ordinances, they are up for consideration in El Paso, Mesquite, San Antonio, we did as much as we could at the legislature to get prohibitions on this. We need your help to pass these ordinances. This is one skirmish among many battles at the city, state, and even the federal level, but I would ask that you not postpone this. There's not a middle ground to stand on with this industry. They prey on poor folks. And we need to stand up to them. I'm happy to answer any questions about our own experience with clients and the pay day lending industry. But thank you for taking this on.

Mayor Leffingwell: Thank you. Next speaker is Ryan Brannon. Ryan signed up against. You have three minutes.

Mayor, Mayor Pro Tem and Council, my name is Ryan Brannon, I'm a policy analyst at the Texas Public Policy Foundation, we are a 501 c 3 non-profit research organization that looks at legislative activity and

bills in front of the texas legislature, i was tasked with the bills this go around. I'm glad they mentioned that there was the tiny print in there and that every now and then there's a really bad story or sob story because the texas legislature passed two bills that go into law in two weeks on september 1st that take care of both of those problems, the other bill that the texas legislature was looking at was similar to this ordinance. Where they were going to restrict the amount and the time limits for returning of the lending of money to consumers and decided not to pass that. As they said, 15 other states have banned pay day lending. In those states the unintended consequences that we were talking about earlier, you have more bounced checks, more people seeing loan sharks, more people filing for chapter 7 bankruptcy, generally lower, lower middle class consumer than you do in the states where they don't regulate these pay day lenders. So really you have adverse negative consequences when we get involved into the market in these situations determining the number of pay day lendings in a certain area, against what the market bears is also conducive to limiting or restricting the amount of lending that consumers can get. If consumers go to pay day lenders, because that is the only credit option that they have, they have already gone to banks, they've already gone to credit unions and been denied credit. If we deny credit to these consumers at this level, they have nowhere else to go other than to bounce checks and see loan sharks and those are the unintended consequences that are worse for our citizens which is why the texas legislature did not act. It was correct. Dallas did pass these, the second class passed this ordinance they were sued and now the taxpayers are fighting the lawsuit in the city of dallas. There's another unintended consequence. If we're going to try to get at the bad actors, I don't think hitting everybody with a sledge hammer is the correct course of action. We should spend some time looking at exactly what the right thing to do is.

Spelman: Mayor?

Mayor Leffingwell: Councilmember spelman?

Before brannon, what's the nature of the -- mr. Brannon what's the nature of the lawsuit, is it your organization.

No, sir, we're just a research organization.

Spelman: What's the nature of the lawsuit brought in dallas, do you know?

Yeah, I actually wrote a research paper on it and i was going to hand it in and forgot it at home. The clerk was nice enough to let me know that I can email it. I believe there were four separate causes of action, two of which had to do with duplication of the state law that was just passed. A [indiscernible] type of issue, I don't know the actual specifics off the top of my head. But I can send them over to you.

Spelman: The way -- three nice fellas from easy corp came into my office earlier in the week and suggested that we could not act because we were pre-empted by state law, does that sound familiar?

I do believe those are two of the causes of action.

Spelman: But you don't know the other two?

I do not. I can find out and get back to you, but I don't have that information readily available.

Spelman: Okay. The other issue that came to mind while you were talking, you were talking about 15 states that banned pay day lending. Rather than banning pay day lending outright what we should do is presumably what the other states did is not regulate it at all, is that what you are getting at.

Other states have down the middle ground which is what the ordinance is trying to do here, try to find a way to keep them operating at some level that is not what the market bears but not get rid of them

entirely. If those states I think north carolina is the prime example where they have done that. They have also seen some of the same problems that [indiscernible]

Spelman: I believe one of the federal reserve bank of kansas city article which a fella from easy corp sent to me.

I haven't read it.

Suggested that north carolina was a ban as well.

Is it a ban now?

That's what they said in the article.

Okay. Very well could be, i vice-president read that article. I haven't read that article. Almost been a year since I've done the research. Some states have changed. Texas is changing.

Spelman: From a conceptual point of view would you recommend something between a been and not regulating at all? Middle ground? Can you admit to the possibility there might be middle ground --

I can't. I look at it from what the market does. In this case the market would dictate what is the middle ground. No pay day lender is going to charge what they can't get in the market. The consumer who gets, you know, the raw end of the deal is going to switch to another company. So that would be where we would find the middle ground.

Spelman: You would presumably, are you against regulation of banks, credit unions, savings and loans as well?

No, like I said, we think that the signpostings, registration were steps in the right tricks, but we don't want to use the big hammer.

Thank you, sir.

Thank you.

Mayor Leffingwell: Councilmember morrison?

Morrison: If you don't mind, I just have a couple of other questions because I'm wrestling I think perhaps what I am hearing coming from councilmember spelman, that is a test there some reason to have some conversation rather than just going forward tonight. I think that I heard you say where we are now is the middle ground. Between total ban and totally unregulated.

Well, yeah, I think we need to see -- the bills that were passed in the texas legislature haven't gone into effect yet. They go into effect in roughly two weeks on SEPTEMBER 1st. I think we need to figure out and see what those bans or bills are going to do, how that's going to effect everything before we keep piling on and end up, somewhere unintended that we don't mean to be. Just kind of take a look at what happens and go from there.

Morrison: I know that we've gotten some calls from people who think that what's proposed here completely bans them and that of course isn't correct. But what it does is put some limits on what is possible. Do you have any accepts of what impact that's going -- sense of what impact that's going to

have to the viability of a business and if they are only allowed to turn over a loan so many times?

I think there's two separate ways to look at that. I mean, one is these are already precarious loans in the first place. It's a very risky consumer and risk reward type of loan. The margins are pretty low. So I haven't done the research to see exactly what this particular level of regulation would put on the market. But I do know that whenever you restrict the market beyond what -- whenever you restrict a company or in the market, beyond what the market dictates, you see it decline and the welfare of again with the states that we looked at, the consumers themselves as well as the company, it kind of hurts everybody without meaning to. The other, I don't know if we are allowed to talk about the separate ordinances at once, but if we start dictating zoning and the number of companies that can be in an area at once, it's picking winners and losers. The company that's there now is going to get all of the business from that area. That's nothing that can really stop them from driving up rates and creating kind of a mini monopoly in the city. I think that's possibly even worse, to be honest.

Morrison: Just to go back, make sure that i understood. You think these businesses are operating on low margins already.

That's my understanding.

Morrison: I have to say that's sort of surprising to me looking at the interest they are getting on people's money.

That's true. That's a large percent. He said 533% for one. If you are looking at a two week loan instead of annual the merge matters. It's like \$4 or \$6, like 4% annually would be \$4, but on a short term loan the percentages are going to vary because you're looking looking at a shorter pay back.

Councilmember tovo?

Before brennan, you mentioned in some of the states with similar bans, the number of bounced checks increased.

Yes, once those increased the banks come in and apply more fees for the bounced checks and then you have to pay the loan back and pay the fees back and then, you know, get out from that debt as well. So --

Tovo: Let me ask you a question about that research, is that research that your foundation conducted?

> Yes.

Tovo: That seems to me that would be pretty tricky to prove. Were you able to also factor out the variables like the economic conditions getting worse and more people bouncing checks because they are in a worse financial position?

In this particular part of the research, we relied helpfully on a federal reserve bank of dallas survey conducted. Actually the apple seed group used as well in some of their research. That was just to get the market background on what was going on.

Tovo: Did it look at actual consumers of pay day loans and see that they were bouncing more checks than they had previously.

That's correct.

Tovo: They were looking at individuals and not bounced checks --

that's right, when I send you that information I can send you that study as well.

Tovo: Okay, thanks.

Mayor Leffingwe Okay. Next speaker is don baylor. Don baylor is for. You have three minutes. Are you a baseball player.

Just junior, mayor.

Mayor Leffingwell: Okay.

Don baylor, junior, senior policy analyst for the center for public policy priorities. We also are a non-profit, that advocates on behalf of low and moderate income families to create better public policies, again daily cultural to create better opportunities and help them meet their basic needs. Given the most recent speaker I want to clarify things that were said so everyone is clear for the record on what the legislature did and did not do. First off, both pieces of legislation, hb 2591 which actually deals with disclosure only, hb 2594, which actually just deals with licensing of lenders and some other things, both of those do not go into effect until january 1 and as we know, the legislature does not meet again until 2013. And would not obviously pass any laws that would go into effect until the fall of 2013. In many communities that decided quite honestly they just cannot wait that long. I think that it is good for us to think in terms of this particular ordinance or these particular ordinances doing something around trying to protect austinites from abusive financial practices. But we also believe there's another concern here, and that's really about economic development. What we're trying to do as a state and as a community, what walter's organization is trying to do is move low income austinites into the middle class. This is a product that does not do that. In fact it actually drags people down. And so I think what you are trying to do here is very lawedddable in the fact that you are trying to protect a lot of austinites from being abused financially. But statement you are also looking at the bottom line, both for families, but also for communities. And specifically, what you are trying to do around rollovers, walter mentioned the fact that many individuals roll these loans over several times. There's actually data on this. What we have not had is texas specific data. Our state to the north, oklahoma, 60% of the loan volume comes from borrowers that take out 12 or more loans a year. Th borrower takes out nine loans a year. You can get that through their veritech website. A third party vendor collects this data in real-time. We don't have any reason to believe it would be much different down here. The legislature did not speak to transactions. They basically left the door open to say an individual can pay on time or they can be rolled over to infinity, right? What you have decided to do is closer to one than infinity. And so we -- we certainly applaud you for doing that and we will answer any questions that you may have.

Mayor Leffingwell: Thank you, questions. Thank you, mr. baylor. Those are all of the speakers that we have signed up wishing to speak. Also have jill shaw, tracy whitley signed up for not wishing to speak. Councilmember spelman?

Spelman: Thank you, mayor. brannon properly stated, this ordinance would not ban pay day lending. It only regulates pay day lending and all it really does is knock the roughest of rough edges, one might say the most egregious abuses out. Right now it's possible for people to take out a loan of \$500 and have to pay a \$100 fine or a \$150 fee every two weeks to infinity. The acreage person who takes out one -- the average person has to roll over seven or eight times when means the average person who takes out a pay day loan pays more in interest than they do in the original principal. The vast majority take them out with the understanding they are going to get paid in a couple of weeks and they will be able to pay the whole thing off in full and they will be free and clear. When you are close to the margin, your paycheck is just barely able to help you get by, you are not always able to pay the whole thing off. If you can't, you are stuck until the next pay day, the next one. For the acreage person that takes out a pay day loan and has to roll it over seven or eight times, they end up spending something like five or

600% in interest. The reason the pay day lenders get away with this is because they are not regulated and they have not been regulated in any way, shape or form until the last session, the two bill. That brings up the question of whether we will be pre-empted. I wonder if I can ask you, i understand there are some places where the city council cannot go because we are preempted by the state. Is this one of those?

You are correct, this is not one of those areas, councilmember.

Spelman: I wonder since the issue is likely to come up, [indiscernible], I think that you were the person who actually looked into this very carefully for us. Can you tell us under what circumstances the city cannot enter into a realm of regulation and how it is that we can legally have the authority to enter into regulation in this case?

I think you basically summed it up in those few words right there. What the test is. If the state has already through state legislation spoken on an area of the law, the city cannot come in and pass an ordinance that would conflict with that state legislation. If there is a conflict, then the city ordinance would be pre-empted. Meghan and I have looked very carefully that the existing state legislation, as well as these two bills that were passed in the last legislative session, and i didn't see any pre-emption issues at least on my part.

Spelman: The state did not say local governments cannot do this.

This is correct. Nothing in the existing statute or latest bills that were passed to that effect. You were correct nothing of that sort.

Spelman: What we're doing here is not in conflict in any way with what the legislature did either in the last session or in previous sessions?

That's correct, that's my opinion.

Spelman: So it's your opinion that we are not pre-empted and if the industry were to sue us, claiming that we were pre-empted that we would have at least proper grounds to defend ourselves and it is your opinion that we have the authority to to do what we're talking about doing here.

Yes, that's correct.

Spelman: Thank you very much. One last point that I would like to make, mayor, that is that the gist of this ordinance is more or less identical to the regulations which were proposed in the legislature by members of our own delegation, representative eddie rodriguez and senator jeff wentworth who put in bills which were successful as mr. Brannon mentioned but i think should have been successful. We're not talking about anything here that hasn't been talked to death in the legislature in the last session already. We could talk it to death ourselves if you would like. I don't think a whole lot of new information would come up in our own discussions that has not already come up many times before. Mayor, I move approval.

Cole: Second.

Mayor Leffingwell: Motion by councilmember spelman, to approve on all three reading. Seconded by councilmember morrison. Is there any discussion? Councilmember morrison?

Morrison: I am going to support this motion. I just struggle a little bit with whether or not it makes sense to postpone it or not. I am persuaded that some kind of regulation is needed for the good of the individuals in our community and also for our community. But I don't -- my sense is that -- that a delay at

that point would not be productive. The idea of middle ground, this is already middle ground because it's putting some limits, but still allowing the business to go forward and as councilmember spelman mentioned, there was a bipartisan support for this at the legislature, which is very meaningful to me. And I believe that -- that there has already been a lot that got worked out in that discussion, too. So with that, I am comfortable with moving forward today and I should say that, you know, in the past we have -- we have this council has moved forward with things acknowledging that something might not be quite perfect and sometimes moving forward and saying well, we'll fix it later if we need to. We know that's always an option.

Mayor Leffingwell: Mayor pro tem cole?

Cole: I wanted to say that I have been really struggling also with this lightsey testified, there is a need for the services and we do have a vulnerable population that also need to borrow low amounts, but the interest rates what are being charged are usous and outrageous. So the real question is what else can replace these services that don't have that -- have that challenge. And I know that there's a program, I think it's called bank on texas, I think that we will still need to look at ways that we can help support that organization and maybe think of ways that -- that pay day lenders could also be encouraged to support that organization. But I did not see that as a reason to hold up this particular resolution, which makes a situation that is bad a lot better. So I will be supporting the motion that I'm a co-sponsor on. Thank you.

Mayor Leffingwell: Further discussion? On all three readings, two-thirds majority required for passage. All in favor say aye.

Aye.

Opposed say no. Passes on a vote of 7-0. So without objection, council, we will go to the related item 79. We do have several folks signed up to speak here. Michael price first. Michael price is not here. Okay. I appreciate it, you spoke on the previous item. We get the drift. Daryl jackson. Daryl jackson. Not here. Rebecca lightsey. Rebecca is for. You have up to throw minutes if you think that you -- up to three minutes if you think that you need it.

I'm rebecca lightsey again. I want to thank you for your support of this. I think that this ordinance goes hand in hand with the one that you just passed to make sure that -- that the economic impact does not adversely affect low income community. We ask for your support and thank you for your attention to this.

Mayor Leffingwell: Thank you. Jim george, also for. Jim george is not in the chamber. Ryan brandon, against, if there are questions and for not wishing to speak, karen serto, jill shaw, tracy whitley. Those are all of the speakers that we have. Council, I will entertain a motion on item no. 79. Councilmember spelman moves approval of item 79. Seconded by councilmember martinez. Is there any discussion? All in favor say aye.

Aye.

Opposed say no. Passes on a vote of 7-0 all three readings. Brings us to item 24. Item 24, we have a number of speakers signed up, first by request is eddie jones.

Good evening, thank you, councilmembers, mayor. I have a handout, may we approach.

Mayor Leffingwell: Pass it to the mayor pro tem or she'll pass it down.

I'll go ahead and start since I only have three minutes. A significant portion of the access easement mandated by city council action in 2006 is land proposed for vacation today as city council agenda item

no. 24. What I would like to do is go on record and request that the street vacation item, 97931 agenda item no. 24 Be postponed and the property not transferred to dr ordinance or access easement has been corrected and the joint access and cautionary agreement has been signed by the city, by dr horton and the tumble weed owner. Despite continued efforts on behalf of myself, scott moreledge president of ash creek homes and rick hightower our real estate attorney, we have been unable to finalize the easement documents with d.r. Horton as of today. I believe the prudent approach to fulfill the prior mandate of the 2006 city council regarding this access easement is to postpone the vacation and the referenced tract until all documents have been finalized and signed by all parties, the city, the [indiscernible] owner and the d.r. horton. Flipping to the firsthandout, that's an excerpt from the 2006 city council meeting, when the adjacent developed -- the d. horton submits it's site plan for development, the city will ensure that all provisions are in place to allow the city to enforce a joint access at that time. This was a mandated easement, requested by 2222, cone in a and the city council at that time and agreed to by myself, [indiscernible] the second, page there, there are additional excerpts from that meeting where councilmember dunkerly is clarifying to make sure that we have whatever documentation that we need to make sure there is a joint driveway at the appropriate time and time marty terry, attorney for the city says yes, ma'am, we will do that. Mayor wynn, mayor at the terry how we're going to do that, the answer is do the -- through the hill country roadway. Nowhere was there ever discussed with city council or 2222 [indiscernible] about an easement that would be terminated and that's a very important issue when you see the access document that was handed to me this -- this last june where -- where the grantor doesn't even own the property that's in the access easement. Third page, is just ordinance where -- where marty terry was referring to and in response to mayor wynn -- [buzzer sounding] --

Mayor Leffingwell: That's three minutes.

That's it?

Mayor Leffingwell: Yes, sir, thank you.

Holly [indiscernible] holly is also against.

First of all, mayor, councilmembers, I would like to thank you with the opportunity to speak today. With regard to the alternate access on the tumble weed tract, the current access was called the most dangerous driveway on 2222 by the neighborhood association and the april 2006 city council meeting. Having a safe entry and exit to the property is paramount, especially with traffic related to the adjacent middle school and high school. The need for the easement is not in debate. But reasonable terms of the easement agreement should be agreed upon by all parties without the threat of the easement being terminated in order to meet the council and 2222 conas mandate for a joint access driveway. Please turn to page 4 of your handout. On it is a picture of the easement. The pink portion designates the part that dr horton owns and the yellow is the part city of austin owns. Back in 2006 the city council said it would ensure and enforce the joint access driveway. Since that time, it came to light that the city actually owns about half of the mandated joint access driveway. I have to ask the question, how can dr horton execute an easement on land it doesn't even own? I acknowledge that the issues associated with this easement are very complex, thus I'm asking for your support to postpone the street vacation to allow time for the agreement issues to be resolved and signed by all parties, the city, dr horton and the tumbleweed owner. Next, I would like to read excerpts from an email from scott moreledge on page five. Send this morning to chris [indiscernible] dear chris, I have been eddie jones owner of the tumble weed .. mandated by council. A significant portion of the access easement to be included in the tract of land today proposed for vacation in the city council agenda number 24. Despite continued efforts on jones as of today, we have been unable to finalize the easement documents with dr horton, i believe the prudent approach to fulfill the prior mandate of the council for this access is to postpone the vacation of the referenced street tract until all of the requirements for the easement on this particular parcel have been finalized. Thank you for your time and your commitment to public safety.

Mayor Leffingwell: Thank you, gus pena. Gus pena signed up neutral. Rick hightower. Signed up

against, you have three minutes. Won't start until you get here. Thank you, mayor, council, I'm Rick Hightower, I Jones that's the owner of the tumbleweed tract. It's a tract that abuts right up on 2222. Everybody agrees that it's a danger which is why the city in 2006 said get an access the back way. So that's the issue of why we need access. For safety purposes and because that's what the city wants and that's in compliance with the hill country road ordinance. We have been trying to negotiate an easement. We've been given an easement, take it or leave it. Mostly there's issues we couldn't take. But I would say that we have -- we have 95 or more percent of the seizure probably agreed -- of the easement agreed to. There's a few issues we still need to work out. I think we can work it out if we're given more time. We have not objected before the city before or any of the other commissions when the city when they have gone through this vacation process because we thought we could work it out. If the city actually does vacate the property, I think that we have lost any incentive for them to give us the easement. We're not that far away. And I think that we can get there, but if we don't get there, we're not going to be the ones that's hurt. We're back to having access off of 2222 which you don't want to happen. So what we're asking for is a postponement to give a little time so that we can talk to them finalize these issues, actually get a signed easement so everybody gets what they need. [Indiscernible] if there are questions, I would be happy to discuss it.

Mayor Leffingwell: Questions, thank you? Richard Meyer, donating time IS Kate McDonald. Is indicate here?

Mayor, mayor pro tem, members of the council, I'm Richard Meyer, land manager for Dr. Horton. I feel a little like those movies in World War II, you see the plane flying through all of that anti-aircraft fire, all of that stuff flying around, trying to find a way to their target. This is a very simple matter. Do you all have a copy of this right here? The -- we started looking at this tract in 2004. And when we started talking to the neighborhood and the city, they suggested that in order to make the entrance safer, that tract 1 which is the Ryland Ranch developed by Four Star, tract two, our tract, tract three part of our tract at the time, also, and tract 4 would all have one entrance on to 2222 that's where there's an arrow kind of in the middle of the page. So we approached Four Star and we said, hey, can we work something out here? It was a very complicated transaction, took about 60 days to do, it involved building a road, detention pond, paying for easements rights, but we sat down like business people, we got it done in 60 days, paid for it and done. Shortly thereafter, the issue come up in providing an easement to the tumbleweed tract, tract 4, which required going through our properties and the Ryland Ranch property. We worked on that for two and a half years, it was finally culminated with an agreement with the city of Austin and an easement was recorded last year, about April I believe it was. Recently we stored there was an -- rediscovered there was an error, that was overlooked by city staff and Dr. Horton that it was on property that many years ago the original owners of this property had deeded to the city and so it effectively meant that the easement document we signed and recorded had part of the property which Dr. Horton didn't own. We approached the city. We said tell you what, in order to make this all effective so that the tumbleweed tract has access to our property through the Ryland Ranch property, we will purchase that from the city of Austin and we will fix the easement document and then we'll be on down the road. So that's all been done. All we need to do is figure out a way and we've talked to staff basically what we'll do, we've already given the check to the city, we will fix the easement document itself, and we will escrow the -- the title or whatever it is for the easement so we don't get the easement until the corrected easement document is in recordable form and then there isn't anything to prevent us from sort of absconding with the city's property and not giving the easement to Jones. So I think this is a very simple matter. All that we're trying to do is correct a mistake that was made. We can't go any further with Jones in providing the easement unless we -- in accordance with the document that was already negotiated with the city, until we acquire this property, which we have tendered the money for and we're ready to do. I do have to add that as you can see, our tract was originally tract 2 and 3, we did dedicate 3, tract 3 as bird habitat plus another 90 acres off-site, so we've tried to be good stewards, we have worked with the neighborhood. Worked with the -- with the county on bird habitat and we've worked with the city and -- in providing the access so we can have one entrance on to 2222 to safety purposes. I will answer any questions that you might have. [One moment please for change in captioners]

and that's required under the agreement that's been proposed. So that's all we're really talking about.

We just wanted to get on with it. It's been two and a half years. council member riley has a question to you too. richard, you support the vacation?

Yes, absolutely. Sorry. [Laughter] we can't provide the access until we have the vacation. and you're the ones who requested this.

Yes. and it will enable -- it will enable the completion of this complicated transaction that has involved -- that ha withheld all these different properties acquiring access to that one driveway so that they can all have access to 2222 through -- through that one driveway instead of having their own driveways.

Exactly. and some -- some folks want a postponement to talk about this further, and help us understand why you think that that would not be helpful.

We have dealt with jones -- and I don't like to talk about personal things, but for years and years, and he has tried to postpone us numerous times, and every time we come before the board of adjustment, the planning commission, whatever, through this project, and it just -- we get nowhere. So all the documents as far as we're concerned were approved by the city, you know, 14 months ago, and all we need to do is fix this one title problem and postpone [inaudible] and why would jones have an interest in dragging his feet on an arrangement that would allow his tract to have access on that one driveway?

Very interesting question. I don't know. He's already sued the city, so maybe they have some insight into how he operates.

Riley: okay. But as far as you're concerned, you would just like to see this vacation completed so that the -- well, how -- what are the steps between this vacation and having everything all tied up with a bow so that you get the -- so that all those tracts have access along this one driveway?

You might want to ask the city attorney a little bit about that, but as far as I'm concerned what we have to do is get the vacation done, amend -- fix the easement documents that we've already signed, and jones has to give us, i believe, a survey and a couple other documents, and then it's done. I've got a quick question, probably too simple for you, but the items are still pending for -- or the item that's still pending to make this transaction complete. What would happen if that is not complete?

Well, if the vacation doesn't happen, then there's no way that we can provide the access as it was contemplated through our property for mr. jones. i thought there was another item that had to be done before --

not with respect to the easement, with respect to the operational document, there's -- the easement really is subject to several things. He has to pay some money. He has to provide insurance. We want to make sure that our homeowners are protected in case any of his customers or home buyers go through our hoa's property, which is what this is, and, you know, kill somebody or have a wreck or whatever. So there's -- if you look at these in the document there's a bunch of conditions on it that he has to fulfill.

Mayor leffingwell: okay. mayor, I have a couple questions. mayor pro tem? richard, you talked about having -- had to deal with postponement at the board of adjustments and other boards and commissions. Was that in connection with this case?

No, it was in connection with the project itself. oh, it's -- but not the item that we're voting on?

That's correct.

Cole: okay. And then you also talked about -- you refer to the easement as a fixed he's -- easement? Is

that significant or why did you say that?

Because it's already been laid out -- where it is. I've already got a plan --

that's okay --

we already now how it's going to come out of his property and our property and connect to the road --

cole: okay. So a lot of the details of the easement have already been determined and you-all are not in dispute about that?

No, the -- the easement has already been recorded. It's just that we overlooked the fact that there was a sliver of the property that was included in the easement that the city still owned, and it was overlooked when we did this a year ago. It was a mistake on everybody's part.

Cole: just a mistake.

It was, and I apologize for that mistake. mayor, I'm going to have one quick question of mr. jones. ..

Yes, ma'am. I have to apologize because I'm having a hard time understanding exactly why you would be not wanting this access to your property. It's just a point that council member riley brought up earlier.

We definitely want -- we've been waiting and agreed to this back in 2006 with 2222 cona and the city. What I have is the agreement, and it's so onerous and there are so many errors in it, I marked all the errors, if anybody wants to get into detail on this. But it's something we can't sign, I can't perform to it. It calls out-square-footages that are impossible to build a safe road in and have fire come in with a fire truck. It has the wrong unit numbers on it. They're trying to charge interest on this piece of property that they don't own, back to 2009 for some reason. You can ask [inaudible] why that is. I don't know.

Cole: okay. So you're real --

there's a lot of issues -- we're close, we're a lot closer than we've ever been. so you're asking for the delay because there are mistakes in the document that you want more time to work out with mr. mayor.

A delay, or what I would prefer most of all which i think would resolve this whole issue would be don't transfer the land until both parties and the city sign this document, and then it's over, then the money transfers. They've got incentive. They want to get paid for it. I've got incentive. I want the access so I can develop my piece of property, but I cannot sign. I've been instructed not to sign this document as it is because it's onerous and full of things that -- it's a recipe for failure.

Cole: okay.

You sign this and it has termination language in here. It has --

cole: no, I understand.

-- Things that physically you cannot do.

Cole: thank you.

It's a bad document.

Cole: thank you. council member morrison. jones, what is that document and how is it related to the vacation or the easement that we're talking about?

This was, as hightower said, take it or leave it. It was signed by mayor -- but step back for just a minute. What kind of document is it?

It's an access easement. okay, it's an access --

that half the easement is the property that's item no. 24 On the agenda today is the street vacation, which i beg to differ with mr. mayor. They've known about since 2008.

Morrison: okay. Thank you.

Thank you. I think we can all [inaudible] for right now but I do have some questions for staff. you're next. Council member morrison still has the floor. I'm just trying to put all the pieces together here, make sure i understand, and apparently in 2006 the council approved something, and I'm not quite sure what, that a condition of that approval was that they wanted to be sure there would be a joint access easement in place before something. Can you fill in those two blanks?

I'll fill you in the best that I can because that happened in the planning and I just am finding out part of it myself today.

Morrison: okay.

Greg, do you want to address that? whoever can help me get the big picture because I'm a little confused. we still have a number of other speakers.

Okay. We have other speakers, so maybe it would be best if we -- maybe the water will be cleared up by the time we get to the last --

morrison: okay. I'm fine with that.

Mayor leffingwell: okay. thank you, ms. briceer. We'll wait -- I thought we were through.

Mitscog is against? Is thor here? Jim george is against. Not here. Ser lazano. He was here. Not here now. He's also against. And clay defoe. Not wishing to speak. Okay. He's also against. And those are all the speakers. So okay. Nobody is here. so yeah -- i don't know if it takes a couple of staff, but I would like to get sort of a big picture understanding of the chronology.

Mayor and council, greg guernsey, planning and development department. I came into this after the fact on a certain part of this, but the essence is there's a requirement by jones to take early horton horton had a project that they were trying to get through, and there was a breakdown in negotiations between there jones and d.r. horton. the project was the -- what came before council in 2006?

Well, it was a site plan, horton could probably articulate that a little better, but the essence, there was an easement required to be completed in order for the horton project to be finalized. When I became director in 2009, we worked with the parties, in particular d.r. Horton, and allowed for an easement to be created, so that it would be available jones to eventually acquire to take access through, but it did not horton from completing their project because at the time they were -- as the site plans were about to expire and they needed to get through a construction, their site plan actually did lapse. I think they had

to come back and actually come in and file another application and phase the project so the houses would be actually separate on the property from the rest of the site plan. They had to come back through the site plan process. They didn't want that to happen again. And so I think there was an oversight that occurred when the easement created, probably about -- on my staff's part, on d.r. Horton's part, that included some land or right-of-way that was thought to be owned horton, and I think that's the issue that's before you today. There are still issues, i think, between the two horton and jones, that might relate to maintenance of the roadway, construction of the roadway, screening, the liability issue as far as insurance purposes. I am not aware of a hazard that's created by the access for fire, ambulance, access to the property. I have always understood that the radius that were in the easement area that could be accommodated for emergency vehicles to get back. I'm more than happy to have my staff look at those jones want to look at it. I know that I talked with sergiolazano who is the jones, and understood there's a 35-foot wide easement is what we're talking about, its minimum area. It had a 25-foot internal radius and 50-foot external, which typically would allow for an emergency vehicle such as a fire truck or ambulance to get in and out of the property, as well as those people who would like to use that. and is the city involved in the access jones has?

We facilitated the discussion in order to move d.r. horton forward. I think the actual negotiations of the easement as far as the transfer of it had been between the two parties. And I don't know if anybody has anything to add. Either -- -- to either side on that. We have been work with jones for facilitating some changes to the site plan, and scott moreledge i think is a buyer with jones that might want to purchase the property about making changes to the site plan that he's willing to make improvements and take care of red tag issues of the past. Council created a special ordinance regarding that property which allows jones to go forward, which is all kind of aside from the actual easement. so I guess the question I have, vacation aside, the minutes that i have in front of me that jones provided from the 2006 meeting says that when the adjacent development submits its site plan for applications for development -- and I'm not sure --

d.r. horton.

Morrison: d.r. horton. So when he submits its site plan, the city will assure that all provisions are in place for them to enjoy a joint access at that time. So they've already submitted their site plan. Did we ensure at that time, when they submitted their site plan, that all provisions were in place to allow for us to enforce a joint access?

There was a provision that create easement, which I believe -- may have to help me, but I understand that richard -- it's like an escrow that's basically held that addresses the issue of its width, its location. There were things in there about, I think, the liability issue -- so would --

so yes, we believe that that was accomplished by horton, and therefore we released the site plan and allowed the construction to go forward on that property, because the easement was created. I think the oversight came is that we all found out that there's a portion of the easement which they did not own. well, I guess if the final agreement between the two of them about the easement has not been signed, how -- how do we have a joint access agreement that we can enforce?

It's waiting to be signed, and as far as the city is concerned, we believe that it met the conditions of what council was -- had imposed on the horton property to allow for that access he's him. I think the issue -- the issue is that there is a discussion that's been going on a long time about the con conveyance of that, and it may be that there may be a dispute between the two parties over the cost of the easement, the maintenance of the road, the construction of the road. I don't know all of those details. but we made the decision a long time ago as a city that everything was in place as far as we were concerned, even though --

right. -- it wasn't final.

That's right. The conditions exist that horton has basically conveyed an easement. They've satisfied the condition, we believe, before council. There is still an issue between the two parties agreeing on how that transference occurs. and so now we're in a position where we're looking at making a correction to that easement jones never felt was finalized. I think I'm getting it now.

Right. I believe that the issue that the city has right now is that there was an error in those field notes. This would remedy that issue, where when the vacation occurs, i understand that the easement would then come in, probably at the same time as the riser can probably address this, there's a way that we vacate it -- it will not be -- an easement will be conveyed at the same time as the vacation occurs, so the easement will not be lost and it will resemble the same set of field notes i think that was created a couple years ago when it was all put into an escrow status.

Morrison: okay. So I guess the question really goes back to concern about having the city allowing the site plan to go forward in the first place.

Because we believe that there was a conveyance from horton that provided for that condition of council. and that was -- you think that was the only responsibility -- or the only thing that the city had agreed to ensure, or the only thing that the council --

council asked for d.r. Horton to provide that easement to mr. jones. We looked at the documents, I believe we felt that they did meet those conditions, and so we allowed d.r. Horton's property to go forward. and did we have a -- it provided a transcript from the meeting and it says -- zunkerly says, I want to make sure, i think there's agreement between the city and the neighborhood, but I want to make sure that we've got waf documentation we need -- whatever document we need to ensure there's a joint driveway at the appropriate time. So the agreement between the city and the neighborhood, was that just that there would be a conveyance or were there all the details that are now at question --

council, I'm frankly confused. I'm not aware that any of the parties, unless jones is actually speaking on behalf of the neighborhood -- I know there was a general concern about access to 2222, which was a large concern of cona and a lot of the adjacent neighborhood about how you get on to 2222. I'm not sure if the neighborhood has an interest in the actual easement or the vacation instrument that's before you today. They just want to make sure that it happens. And I think the city's interest in this have been satisfied because d.r. Horton provided us an easement, which I believe actually addresses the council conditions and allowed him to move forward, but that transfer between the two property owners, it sounds like it's still being negotiated today, 95% there. I think I'm understanding it now, and that the -- the agreement referenced here is just that there will be a joint access agreement, and it didn't address all the details of what would go into the agreement between the two parties.

But I feel that there is an easement that has been conveyed that would meet that condition once they sign that actual document.

Morrison: great. I hope someone else has some questions. maybe I'm over simplifying but it seems to me this satisfies the city's obligation under the site plan that was 4 of the map I'm looking at.

Yes, mayor -- and the dispute is simply between the two parties as to --

and that may continue. We continue to work with jones to finalize the site plan so he can move forward on his project. We also believe that we worked with d.r. horton. We got a copy of the easement so that is available. horton project to also -- but the easement was part of the original approval of tract no--

that's correct. so this is correcting --

and we corrected the ownership error that was contained with the easement.

Mayor leffingwell: okay.

Cole: mayor? mayor pro tem -- or did someone else -- okay. Mayor pro tem, then. Council member riley? okay, greg, I think I've got it in light of council member morrison's questions, and that is the city's interests have been satisfied, but we do not have a direct control over the details of the negotiation between d.r. jones, other than if we delay, that is kind of a leverage between the two.

And I'm not quite sure how that works for one side or the other. I just know that the condition of council, i believe, has been satisfied, and this would remedy the error that was created and that -- when woarp working with -- we were working with the site plan. mayor, in light of the fact that the city's interest has been satisfied and that this would eliminate the error that was made earlier and that the case dates back to 2006, i am going to move approval. motion by mayor pro tem cole to approve item 24, second by council member spelman, and I believe council member riley had a comment, perhaps. I was just going to -- if I could just ask one last question, agreeing, I think this is for you. there was some concern raised about the errors in this vacation, and my understanding based on the backup is that this -- the area being requested for vacation was originally dedicated for access to the site, so there shouldn't be any dispute about the dimensions of the particular property being vacated higher because it's the -- here because it's the exact same property that was dedicated for access. It's not like we had to doing tout out and do new metes and bounds.

That's my understanding as well. I don't think there's any change to the easement boundaries that are described. The areas within those boundaries, we determined there was a part of it was city right-of-way. The vacation would take care of that. The rededication of the easement at the time of closing, when both those documents get recorded, would resolve that issue.

Riley: okay. council member tovo. guernsey, i just want to be clear. jones showed us that he believed has errors that he can't sign and they're # 5% of the way -- 95% of the way there, that is a document that was presumably prepared by mayor or somebody on behalf of d.r. horton? That's not a document that the city has to review or the city has prepared?

I'm I'm not sure what the document -- I did not see the document.

Council member, I think i can clear that up.

Tovo: thank you.

Okay. The reason why it matters -- that document matters is because it's a condition of the easement. In other words, it's an attachment to the easement and so if these conditions aren't met then the easement is revocable.

Tovo: so who prepared it?

[Inaudible] but that's between the parties. But if they can't come to an agreement on that, what happens next?

Well, the way that this happened is the -- d.r. Horton just filed the easement with the attachment on it because it only -- to grant an easement it only takes one signature. So -- so they filed the easement, and there was not an agreement, is my understanding, at the time. They just filed the easement to meet the terms of the city.

Tovo: okay. So they've met their portion.

Right. guernsey made a comment earlier about -- that the -- that the access will be complete once the agreement is signed, and I may be -- maybe I need to ask mr. guernsey that question. What -- what exactly did you say that was along those lines? well, I believe that the access easement, when the site plan was processed, would address the city's interests regarding the easement. I think there is a discussion going on between horton about the -- I guess the -- what would be contained within their agreement to finalize that. And it may be best to ask jones what the remaining 5% is that they're discussing, you know, whether it's agreement on who the insurer would be for the liability if someone gets injured on the property or the design of the fence that may have been within the easement that might be for screening, and who pays for the road or who pays the cost of easement or how much that is. I can't speak to that.

Tovo: okay. Thanks. all in favor of the motion say aye.

Aye.

Mayor leffingwell: aye. Sergio, did you want -- you were signed up to speak, you weren't here when we called your name. Is there any objection -- council will go ahead and before we complete the vote, we'll hear from sergio lazano.

Mayor leffingwell, members of council, welcome to this hard task. I'm here just to basically say we've been working on the site plan for almost ten years, and the only point of getting forward with this is the access. In 2006 mayor leffingwell, you were one of the council members that discussed this case, and it was very implicitly asked that whenever the site plan that was coming forward because of the hill country, they were going to accommodate the access to our site. The existing access that we have for tumbleweed is not in the best location because of sight distance problems, and, you know, it's at the low point, so it becomes essential for us to have shared the access that colina vista has in order to decrease the potential for accidents that will occur. And also the area that they are offering to my client, jones, in terms of the dimensions, with the requirements of building walls and the width they are willing to give, will not be possible to accommodate a 25 feet fire apparatus that needs to have access to the site. I'm asking you to please assist us oncoming to a resolution with this easement so we can move forward and bring not only safety to tumbleweed site but also increase the tax revenue that we need in this town. Thank you very much. If you have questions I'm here to answer them. council member spelman has a question for you. you guys don't need city council. You need judge wapner. [Laughter] I'm not judge wapner, especially not in this time of the evening. I won't be able to help you. I wish I could. Briefly you're getting what you believe to be a bad deal horton and you're hoping if we fail to give the easement, that will put horton to --

yes, sir.

What exactly is the nature of the problem? The 5% that you're not getting that you think you need to get, what is it?

Basically not enough easement area to accommodate emergency vehicles' access, with the conditions they have adding a wall to the edge of this access drive.

Spelman: okay.

And one that is very important on the easement declaration they have that they can remove -- or not continue with the easement at their sole discretion, and I don't think that's right. What we're asking is to have a permanent use access easement that will serve both properties. you need more space for emergency vehicles. That wall is getting in the way, and you want certainty that you're going to be able

to have this easement, that it's not going to be revoked without warning, right?

That is correct. mayor, are you still around? How much more space do you think you need for the emergency medical -- or emergency vehicles?

With the inclusion of the wall we feel that at least 35 feet. 35 feet in width?

Width, yes, sir. that's one heck of an emergency vehicle, sir.

Well, it's 25 feet minimum that the fire department requires, and if we want to accommodate the wall that they are suggesting for us to build. You cannot build a wall right against the face of the curb because your fire apparatus have a turning radius that will be object obstructing or hitting this particular wall.

They don't have to turn around in the driveway, do they? There is a turnaround, if I may, I can pass what we have prepared. Do you have this?

Spelman: yes.

And that's what we're asking. We're talking about 4,000 feet of difference than what we have, versus what they are willing to get. I really hate to get into this so I'll keep it as short as possible and I'll probably just back out and say I don't want to get into it any further, but i got this far. mayor, you heard what he just said. You can't give that to him?

Well, actually, the easement was originally drawn by mr. jones.

Spelman: all right.

We gave him exactly what he asked for. I mean, this was -- this was two years -- two and a half years ago. I mean, I remember when we first drew this thing it was -- it was the day before thanksgiving, I think 2005. It's never really changed. I mean, this is the first time I've ever heard that it wasn't big enough. I mean -- you guys have been talking about this for years and this is the first time you ever heard it was 35 feet too small?

We met with the city. The city reviewed the documents. It has what you need to turn a fire truck around. This is absolutely the first time brought up, and this is typical of why it took two and a half years to get to where we are, because every time we get to the 95%, they come up with something else. And so we're prepared to give them exactly what they asked for, exactly what the city approved. We recorded the easement in escrow a year ago, and all we need to do is get this vacation and we're done. if there were somebody with the expertise to make a claim that you believe, somebody from our ems department or from our fire department that said that the easement that he asked for in in 2005 on thanksgiving day or whenever it was, wasn't sufficient, really they need more so that we can actually get fire trucks in and out of this place, would you be willing to revisit the issue and give him some more space?

Absolutely. If he needs more room, I'm sure we can accommodate more room. But we can't accommodate any room unless we get the easement vacated. we're prepared to vacate the easement but i want to be sure you can give him what he reasonably expects, which is a fire truck being able to get in and out of his property.

We wouldn't want it either way.

If you could talk to someone in our department -- it's not a police vehicle but -- talk to somebody in our

fire department and see how much space they think you need, sounds like mayor will be willing to accommodate you. I got a question for mr. guernsey. guernsey, would this easement as it's currently formatted, I'm assuming you've looked at it, would that permit the development of this tract? Would that fulfill the conditions? bi best of my knowledge, yes. I haven't looked at the easement other than what i saw today, but staff, either in my department or in the watershed protection development department, we looked at the driveway design, and I believe it's a 25-foot wide driveway, i think it's a 25-foot internal radius on the curve and a 25-foot external. I don't have a copy of the easement, but it may actually show it on there, but that is the typical width of a fire driveway, and I know all of you have it up on the dais, but -- well, I just can't believe that the site plan would have been approved with a driveway that was insufficient to accommodate emergency services. Is that the case or -- would you not have checked for that? yes, we would have checked with that [inaudible] review. council member morrison. I have another lazano, i guess it is, raised an issue that in the agreement -- and this is for you, mayor -- in the agreement, it was that your -- at your sole discretion to remove rights from the easement. Is that --

well, there's plenty of notice provisions and that sort of thing, but there are requirements, for example, of providing insurance. As I pointed out earlier, once we are out of the project this will be on land owned by the homeowners association, and so there is -- there are requirements within the easement document that say that they have to keep it insured. And there are certain ramifications if they don't keep it insured because we have to protect the -- the needs of our homeowners. So there are some -- but there's notice provisions and all that sort of thing in there. and you can only remove them if they don't basically uphold their side of --

absolutely, yes. is that your understanding? I got the feeling originally --

we, I'm not an attorney, but I know that our attorney reviewed the document and that was one of the most stringent points, that i mayor is saying is what the document spells, and i believe you have a copy of that document, and I'm sure jones -- we actually turned down the offer.

You highlighted that particular area. that's fine, thank you. And just one more question about that. Is it -- is it a situation that can be cured?

Oh, absolutely, yes. There's notice and cure provision in the document. further discussion? Any further discussion? There's a motion on the table to approve item 24. All in favor of the motion say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. Brings us to 80. All right. We have a number of folks signed up to speak on this item. Doesn't look like many of them are here, but we'll call the names. Gavino fernandez. Gavino not here. Manuel luscano. Not here. Elisa rendo. Edward rinjone, and edward rindoan senior, all of whom are against. Omar sosa is signed up neutral. None of the folks whose names I called are in the chamber. Those are all the folks that we have signed up to speak. Entertain a motion on item 80. Council member martinez moves approval. Is there a second? Second by council member spelman. Any discussion? All in favor say aye.

Aye.

Mayor leffingwell: aye. Opposed say no. Passes on a vote of 7-0. Next -- 6-0, mayor pro tem cole off the dais. 96? Mr. guernsey.

Thank you, mayor and 96 is case c14-2011-0043 for the property located at 753 montopolis drive. This is a zoning change request to commercial liquor sales, neighborhood plan, or cs-1-np combining district zoning and general commercial services, neighborhood plan, or cs-np combining district zoning. The planning commission's recommendation was to approve the staff recommendation to grant the cs-1-np

and the cs-np combining district zoning on vote of 7-0. This property has existing cs-1 zoning that was granted previously under older codes in 1971, which currently would allow, by right, a package store. And a portion of the property that they're asking to re -- be rezoned would be zoning to the cs-1 zoning, and that would be 998 square feet. In turn, they would ask to downzone the existing cs-1 zoning that was created in 1971 back to cs. So you would have basically a flipping of the cs-1 zoning on the property. If you look at the exhibit that's on the screen right now, where it's in red and it has a little box in it pointing to -- a little red box, that's where it's currently zoned cs-1. The other little box to the right and kind of just above is where the cs is -- they would essentially flip. There is increased amount of land area that would be zoned cs-1. That increase is about 180 square feet, approximately, but in essence it would be switching one space for another. The property is currently developed. There is an existing shopping center as you can see by this exhibit. We do have a valid petition, and that's opposed to this application. It's just under 30%. The owner is not available this evening, and in your backup material in yellow there's a letter that's addressed to you that basically states that he had a scheduling conflict this evening, that he apologizes he could not personally appear before council to support his case, but his demanding work schedule is preventing him to be here. And you can read through the rest of his letter. We do have several neighbors that are present that would like to speak to this item. They indicated before the meeting started in earlier discussions, I know, that they would speak in opposition to the rezoning case. If you did approve the rezoning I think they had a desire that you add a conditional overlay, and that would at least prohibit cocktail lounge as a use that would be allowed on this property, so they could never come back and change the liquor store into a bar. Right now the property is zoned cs for the majority of it and cs-1. There's a veens store and a -- convenience store and a to the north is auto sales, to the south is a church, to the east is single-family and -- church -- single-family residences. To the west is office zoning and another church and family residence. Currently the locations are more than 300 linear feet from front door to front door, legal walking distance, and so we believe at this point that they would not need a waiver from the alcoholic bench rimplets of our code which would -- requirements of our code which would require council approval. The zoning change is -- if it's denied tonight the cs zoning would remain and they could move a liquor store back into that existing cs-1 location. The existing tenant, I think it's a salon, would have to move. But that's all I can add. I don't believe there is the owner's representative or the owner is here.

Mayor Ieffingwell: mr. Gu gu ernsey, did -- the owner is not here. The applicant is not here.

No, and my staff repeatedly contacted the owner -- did he ask for a postponement?

Guernsey: no, he did not. is he aware that he was entitled to ask for a postponement? he did technically -- yes, he is aware of the postponement. I think everyone realized -- I think he realized as well that when this was here at the last meeting, when he was here, he left because he thought the meeting had ended, but he understood that everybody was coming back this week, and that's why he wrote the letter that he has. In your backup there's also a powerpoint that he provided. I think this is in yellow on the dais. At that time the neighborhood actually added a signature to the petition, which made it valid, which is the last significant change made to this application. well, I'm just a little bit uncomfortable with approving a case that hasn't had an opportunity for public hearing and there's no applicant here. all I can say, mayor, is I know my staff spoke repeatedly to the applicant, made him aware of what was happening this evening, and that's all i can offer. council member morrison. can you remind me, did he ask for a postponement last time on the agenda? And that's why we're --

when it was on the agenda last time I believe he showed up at 2:00. He wanted a postponement because he couldn't come back because he had a work commitment, I believe. I know jerry, I think, spoke to him, jerry rusthoven, the business manager --

jerry rusthoven, planning review. The applicant when it first appeared on the agenda he requested a postponement and got that, an uncontested first request. At the last city council meeting the gentleman is middle eastern, and i believe there may be somewhat of an language issue, I'm not sure, but anyway, he showed up here at 00 and when you-all broke for proclamations and dinner and -- when he saw

people leave the room and council leave the dais he thought this meeting was over and you-all would continue your agenda next week where you left off. He left the building, went to work, he said. I called him up backup he 00 when we took up the item. He was unable to return that night and asked that we put it off until today, and then yesterday we received a letter stating he would not be able to be here today. ask for a postponement --

he asked for a postponement and there was a mix-up -- there was a mix-up last time. and I remember there was a bit of an issue in terms of the neighbors having sat around for many hours and in the end agreed to [inaudible]. council member tovo. I have questions guernsey or mr. rusthoven. So I went out there to the site and I'll say there's some confusion about the address, but nonetheless, it looks to me like that site is completely -- like the liquor store is completely empty. Was he required to remove all of his items from that store until this zoning issue was work out? well, this came up as a code compliance issue, and so if he's not successful with the zoning case, these would have to terminate. Sometime during the course of this case he emptied the store. I don't know all the details on that. I know the neighbors, i think, had actually witnessed the -- their removal, but it is closed at this moment, and so he's not operating at this time. I don't know the details and how and why he moved out. because I didn't -- I mean, I would have to go back and look, but I don't think I even saw shelves and things or a seen outside. You know, I had some difficulty, especially since the address wasn't -- wasn't clearly marked. I had some difficulty even determining which the liquor store was because there was no external signage. You know, I finally just located it because there was some paint on the parking spot. So he wasn't required to remove all the liquor and the shelves and that kind of thing from the interior of the store? we would certainly like him to be in compliance when he comes before you for action, and it may have been that he --

tovo: I see. So I did that out of -- gotcha. Okay. And so then my next question for you, you had shown a map of zoning and you kind of we went through some of the zoning on the adjacent parcels. Would you mind just putting that up again? I guess what I was trying to determine was what the zoning -- so the salon on the edge is the parcel that has cs-1 zoning. How about the two -- the two uses right next door to it? well, the -- the majority of the shopping center, as you -- so it's like that little -- it's the rest of the building, I think there's like a convenience store and then something in between the convenience store and the salon. What is that all zoned? where you see the red boxes, the red box that's to the lowest point, that box is a cs-1. The remainder of the property is all cs-np. So the vast majority of this property, they can move the hair salon elsewhere on the property, but the cs-1 that exists is only that bottom box that has a red flag that goes to it. But the rest of it is all cs-np. do you have any history for us of why that one little corner was rezoned to cs-1? no, I can only imagine that the building has been there since the '70s when it was rezoned, that there was envisioned to be possibly a liquor use on that property. Back in 1971 it wouldn't have been zoned cs-1. It probably would have been zoned, I think it's c-2, but it would have allowed alcohol sales in that suite, and even though the zoning change occurred when we changed all our codes in the mid-'80s, that was typically just brought forward to the closest classification, would remain cs-1 from about 184 all the way through today -- 1984 through today. So zoning doesn't go away unless council rezones it. That request can come forward either by the property owner. I know when the neighborhood planning came in from montopolis, talking with the neighbors, it's such a small tract. It was not seen by anyone as being too intrusive. There are a lot of issues when when we're doing the montopolis plan and doing the rezoning for the montopolis plan, and I think the neighbors will speak to it. They thought it was overlooked and had they known they would have asked for a down zoning. It didn't come up so that's how it got there today.

Tovo: I was curious. Once out of three or four in that building that has the cs-1 zoning. Did it ever have a liquor store --

that I don't know. The neighbors might be able to speak. They're shaking their heads no. I guess that's all I have for now. Thanks.

Guernsey: okay. council member riley. greg, I didn't hear you mention anything about a conditional

overlay on the current cs-1 site, so would the -- legally would the owner be able to establish a cocktail lounge there on the current cs-1 site. yes, they would have to come back in and get what's called a conditional use permit. It's a site plan approved by the planning commission. That site plan may be appealed by an interested party, which includes the neighborhood, association and -- or an adjacent property owner, basically someone that has an interest with 500 feet who rents or owns. they would need a cup.

Right. And what the neighborhood indicated before the meeting, if it's desired that the council approves the zoning change, they would like the council to consider adding a conditional overlay that would prohibit cocktail lounge. So that's not a possibility in the future.

Riley: right. Right. So if we just denied the -- if we denied the seasoning outright, you'd -- zoning outright you'd still victim cs-1 in its current location -- the cs-1 zoning in which the cocktail lounge would be a conditional use.

Guernsey: that's right. It's about 800 square feet so it would be a small cocktail lounge.

Riley: right. Right. And then if we -- if we approved the zoning, one advantage of that would be that we - we could actually -- it would actually -- we could make it a prohibited use. -- Make a cocktail lounge a prohibited use.

Yes. and the other difference is that it would be about 100 square feet bigger.

Guernsey: about 180. 180 -- couple hundred square feet bigger. So are there any other differences between the zoning that would be in place with -- if we approved it as opposed to just denying it? well, the only other difference is the location,.

Riley: sure, sure.

Which backs up closer to one of the petitioners. It would probably be more visible.

Riley: right. Right. as you drive by. Right now the existing cs-1 is perpendicular portion of that center, so you don't really see that, and if you were to approve the rezoning, it would actually more face -- because that part of the center is parallel, so you'll see it more visibly -- I was out there recently too, and it was no -- it didn't look like there was actively an operation, you could see the spray paint in the parking -- the parking curb saying -- liquor parking only and that was the only sign that it had been a liquor store. But I can see how that location facing the street would be more visible than just the end of the -- that it's perk dick lar to the street. Okay. -- Perpendicular to the street. Okay. Thanks. all right. as I said, the applicant is not here. I did hear that. The applicant is not here and there are no speakers signed up in favor, so I'll go to those against. Greg? guernsey, council member martinez has a question for you. greg, I just -- I wanted to understand or have you share with us staff's rationale for recommending approval and then maybe a little bit of discussion that went on at pc. well, it's not unusual to have shopping centers with cs-1 zoning throughout austin. We looked at this and did not see that that was intrusive of a use because the use -- or the zoning actually already exists, and so we just looked at moving it from one part of the center to another was not really adding more cs-1 zoning to the area because the owner is agreeing to downsize it. It's not going to be divided into multiple because it's so small. We're not doing anything greater than what's there and not increasing the presence, I guess you would say. You could consider the visibility as being more of a presence, but the physical presence is not any greater than what was there before. So we did not see that as intrusive. It wasn't contrary to the neighborhood plan. It was a commercial tract. It's been in this area a long time and that's why the staff came back. And I believe the commission felt in a similar circumstance because of their vote, I think it was 7-0 in this particular case. and i appreciate that. That's why I appreciate it gets to council level, because for me there's other considerations other than just swapping out a square for a square, and that's creating a viable business that's not viable right now and that's why it doesn't exist right now. And I don't believe that i can support

a zoning change to enable a business to operate that is arguably, you know, one of our most controversial zoning cases, and I don't -- I don't take just that rationale. For me there are other factors, and that is one of them that, because of the current cs-1 being perpendicular to montopolis, by swapping that out with one that faces montopolis, i think we create a viable business that the neighbors are not happy with and wouldn't want to see. first speaker is pam thompson. Signed up against. You have three minutes.

Since I'm opposing do i get five? Okay. The montopolis neighborhood plan contact team voted against cs-1 zoning being moved on the site because it will increase the size of the zoning and because there are three churches who have signed a petition and a cemetery across the street from the site. We do not consider the liquor store appropriate for this location. And we have a video, if you could show that, please. The dense population surrounds the site, and what you see here is the liquor store where it was open in the back, where the lady was walking -- now, this is the convenience store, the pack and save foods, and that's been there for many years. To the right is the church, and that's richardson street, and then here is montopolis. There is another church. That church has been there stins 1941. It has historical zoning. This is the cemetery that is -- and then there is edward's baptist church right there. The cemetery has historical zoning too. We could not find anyone who owned the cemetery. It's maintained by all of the churches because it's been there for so many years and no one is buried there now because it's full. So the dense population surrounds the site and our neighborhood has small homes on small lots. The school bus stops at each worn of this property and half the bus is empty because of the all the children who live in the immediate vicinity. The liquor store zoning is in the middle of our neighborhood and we're totally opposed opposed to it. The petition says that the area that represents the surrounding community at church's congregations are union nief against cs-1 zoning at 753 mon top replies or any of the mailing addresses contained at that site. The applicant refers to several addresses and documents but the documents case before you only states the address at 753 montopolis, and small portion of that address that has cs-1 zoning, as you can see in the diagram. Staff can clarify that for you. We rely on the survey map instead of the mailing address, especially since this is a petition section of a larger building with the same mailing address. You can see this is wrt liquor store was opened -- this is where the liquor store was opened, the red x, and it's called 737 b montopolis.

it reads that we are opposed to the zoning change and cs 1 zoning at 753 montopolis. We don't know if the council can address this at this time, but we think that cs-1 zoning in the middle of our neighborhood is totally inappropriate and we are sorry that our neighborhood plan passed with this little sliver that we didn't notice. I don't know if you can remedy that or if you can, but we hope that you will try. The east riverside corridor, and I don't have the map in color that shows the zoning, but if you look there, we are way over to the right of that or towards the colorado river from where all of the new zoning will be on the east riverside corridor and there will be ample opportunities there for liquor stores. But this is the middle of our neighborhood and we hope that you will help us maintain the integrity of our neighborhood. So are there -- did anybody understand this? It took us a long time to figure this out, so if you have any .. we're here.

Spelman: I have a quick one.

Mayor Leffingwell: Councilmember spelman.

Spelman: Earlier in your presentation, pam, you said that if we understood the crime reports that we would have -- the planning commission would have said no or we would have said no. Could you tell me more about that?

Well, we asked the planning commission to please ask staff to look up the crime reports, and so frank has looked that up and he is going to present that in his testimony. So he will explain that better than me and frank has lived there in the neighborhood since his whole life and I would ill have only been there

two years on halloween.

Spelman: Okay. I'll wait for frank to come up.

Morrison: I have a question.

Mayor Leffingwell: Councilmember morrison.

Morrison: I think this may have been covered before, but i want to be clear. This liquor store that went in and was found -- it was just recently, is that correct?

Yes, it has just recently been there. And one thing I wanted to point out because of what councilmember martinez said, thank you for reminding me, is when this gentleman brought this property there was a going business where the liquor store was. It was a lady who handled nails. She had a beauty shop. And the applicant made her move. And when he acquired the property, the cs 1 zoning was a storage area and was not used. So it turns out I think that this little lady lost her business and then he was asking for more people and another person moved in with a beauty shop. And by that time he had retrofitted the cs 1 zoning into a beauty shop with lots of plumbing and stuff. So we don't understand why he did all that.

Morrison: But there's never been a liquor store as far as you know?

No. I think it was mostly out of respect for the neighborhood because i just want to say where that friday nights lights is filmed down the streets at ray's, ray's does not serve alcohol or beer because he respects the community's wishes except with a meal. And I think that's the reason that all of the people that are on this live historically have never opened a liquor store because there are churches all around it and neighbors.

Morrison: Thank you, pam.

Thanks.

Mayor Leffingwell: I've got a question. Is ray's the barbecue place on friday night lights?

Yeah, right down the street from us. You eyes guise should come over there and eat. It's really good.

Mayor Leffingwell: I will. Frank monreal. Frank has three minutes.

Good evening, mayor, city council, my name is frank monreal, board member of the montopolis contact team. Just one of the other things that I'll go over, pam was going over, that -- that place, that area that he had originally had the zoning for the liquor store back in I would say june of 2009, he was using that area, all that little part of that strip center, he was running some illegal gaming eight-liner things out of there and he was raided there and so -- and just to clarify, this guy is college indicated, speaks english very well. This was the kind of thing that he had going on at that place from illegal activities, running some gaming machines and all that, and he did move the hair salon from the -- that place back over there to the corner like pam said. Which was one of the things that we didn't understand, why he did that. But that was because he wanted that liquor store there. Also, pam didn't mention that right behind this property habitat for humanity is fixing to develop some houses back there, which is directly right behind this. And I don't think that this is really a good fit for either our neighborhood. And councilmember martinez can tell you from seventh street, all of east side in that area, there are no liquor stores in there. You don't put a liquor store in the middle of a neighborhood. There's one liquor store at the corner of sixth and i-35, but that's because of i-35. That's the only liquor store. We don't feel that a liquor store is -- if it was outside along the highway or something, we could probably support it, but not

right in the middle of the neighborhood. There's a lot of -- you can see by the police report that it's -- it's pretty length they. There's a lot of activity going there. It's not a safe place like he was telling the planning commission, how safe that place was there. We ask that you don't approve this. If you have any questions?

Mayor Leffingwell: Councilmember tovo and then councilmember spelman.

Tovo: Can you clarify for me, is applicant also the owner?

No, his dad owns it.

Tovo: You were referring to the movements of the salon and that kind of thing, you were talking about the owner or the applicant?

I would -- I'm pretty sure that -- well, that's his son. That's his dad. So they're --

Tovo: I'm sorry?

The owner of the property is the applicant's dad.

Tovo: Does he own both -- the whole shopping center?

The whole thing, yeah. And that corner where he built that liquor store, there was a hair salon there before. You know, he moved the hair salon over here back to where he had the proper zoning.

Tovo: Was it the same salon? I thought I understood thompson to say that they moved a salon out and now they moved another salon, it's not the same salon.

That lady closed down the salon, yes.

Tovo: Yes. I got it.

Then another one moved in, yes, ma'am.

Tovo: Thank you.

Mayor Leffingwell: Those are all the speakers -- excuse me, mayor pro tem. Me, -- councilmember spelman has a question.

Spelman: I think you mentioned that mohamed bought this place sometime in the recent past. Do you remember what that was?

From what i understand he bought it in '71.

Spelman: '71?

That is correct?

Spelman: Okay. So he's owned this place since 1971. He was -- no.

No?

Mayor Leffingwell: Would you come up? Councilmember Spelman has a question for you. The discussion has to be on the record, that's why.

I'm sorry. The zoning has been since 1971. This gentleman has not owned the property since 1971.

Spelman: When did this person buy the property? Do you guys know?

Esther knows.

Spelman: I would love to hear. Please come up. I thought we had no more speakers.

I think he's the last one. Go ahead.

Mayor Leffingwell: You are the next speaker.

He's the next speaker.

Spelman: Okay. I will withdraw my question until after he's spoken and then I'll probably ask you questions.

Mayor Leffingwell: You can start your minutes. Is William Wright here? Is William Wright here? Okay. Pastor, you have up to three minutes.

I'm Reverend J.C. Adams, the pastor of the Missionary Baptist Church at 702 Montopolis Drive. Thank you, Mayor, Mayor Pro Tem, and for the City Council for this opportunity to speak. The Baptist Church is the oldest, let me use the word, Black Baptist Church without any discrimination, is the oldest Black Baptist Church in Saint. Our church is 153 years old. We're not that age and not the oldest in Austin by organization with the oldest in Austin by annexation. We claim the seniority. We're members of the National Baptist Convention of America, the Southern Baptist Convention of America, Missionary Baptist General Convention of Texas, Texas Baptist John Association and the Austin Baptist Association. We moved in this building that we're in 20 years ago, 1991. At the time that we moved in this building, it's a lawyer, an attorney owned that property, that whole property over there. He offered to sell it to us for \$250,000. At that time we were under financial strain. We could not swing it. A big sign was up on the side of the Montopolis for a great many years. The owner of this property that is there now has not owned that property more than 10 years. So if he -- the zoning that they have there at this time came under the heading of the purchaser or whoever required the zoning in 1971. This gentleman has nothing to do with that. We have a great membership here. We have a youth church where we're training young people and so forth. And we are in full swing with our church. And it's my pleasure to come before you, City Council, at this time, to ask you to deny this zoning. And not only this zoning, but we as a church want to ask you to consider that there will not be a zoning at that area for the liquor sale at all. And one of the reasons for that is it is a small community. We have a very close proximity here, and it certainly will affect the quality of our neighborhood. It will affect our neighborhood at large. So I would like to ask you for the representative that I hold in the Montopolis area -- [buzzer sounds] -- I would like to ask you to consider denying this zoning. Thank you.

Mayor Leffingwell: Thank you, Pastor. Now those are -- a question for you from Councilmember Spelman. Reverend?

Spelman: You've acquitted yourself admirably with the three minutes so what you wanted to say. I have one more thing I wanted to ask. Do you know when this particular -- when the owner of this property

bought the property?

Not exactly, no. I don't know exactly when, but I do -- the previous owner that sold it to him was in contact with us just a little over 10 years ago. He moved from austin to seattle, washington. He would come back to austin every year and play his guitar and he and his wife would sing for us at christmas time. And he tried to get us to buy it. We just was not financially secure to do it. We would have, but we were just not financially secure to do it. So we know that he have not owned this property much over 10 years.

Spelman: But has been in the last -- he bought it sometime in the last 10 years.

Within the last 10 years or just a little above.

Spelman: It was more than four years ago. It was definitely more than four years ago.

More than four years ago, by all means, i think. I don't know when he bought it. I don't have no documents on that to when he bought it. But I know that he didn't own it more than 10 years ago. Because the owner tried to sell it to us.

Mayor Leffingwell: rusthoven and companies has something to add.

I just looked up the records. It's 2004 when he purchased this property.

Spelman: The reason I was asking is because I was looking at this printout of crime zone on the site and trying to attributable whether it was during the time this fellow owned the property. And all of it, of course, is. I do feel a need to point out however that there's a big difference stuff in 2007 and the stuff more recently. The old stuff is possession of drug paraphernalia, public intoxication, possession of criminal instruments. This is kids hanging around probably drinking, maybe doing drugs. The last three years aggravated robbery. There's a controlled substance violation. There are a couple of those. But for the most part we're talking about theft by shoplifting, spition of burglary, theft. This is -- the property is a victim rather than an offender or an attracter. So I think if we were considering in this case in 2007 I would be very concerned that this fellow was not taking care of his property and not taking care of the people who are hanged around the property were behaving themselves properly. Over the last three careers it seems to me that there's been a change in behavior. There's less evidence of people hanging around improperly. It does look as though he is more a victim than he is an attracter. I just wanted to point that out.

Thank you.

Mayor Leffingwell: Any other comments? Mayor pro tem cole?

Cole: Well, I think it's pretty clear that this is a neighborhood that has went through change and has organized itself sufficiently to not want this cs zoning and the liquor store. And given its proximity to the church and the request of the neighbors and the case that they've laid out, I move to deny.

Tovo: Second.

Mayor Leffingwell: Just to go through the motions here properly. This would be time for rebuttal, but the applicant again is not here for rebuttal time. So I'll entertain a motion on item 96 by mayor pro tem cole to close the public hearing and deny the request. And seconded by councilmember martinez. Further discussion? All in favor say aye. Opposed say no? It passes on a vote of seven to zero. Those are all the items on our agenda, so without objection, we stand adjourned at 8:48 p.m.

